MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BILL STRIZICH**, on February 21, 1991, at 7:15 A.M.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Staff Present: John MacMaster, Legislative Council
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

HEARING ON HB 675

Motion: **REP. BROOKE** moved DO PASS on HB 675.

Discussion:

REP. MEASURE said this Bill discusses excluding an individual from the home for threat of physical abuse or bodily injury. He said he had worked with this quite a bit.

The judges find it practically impossible to figure out if a minor argument could come under this statute. He opposes it.

Vote: Motion carried with **REPS. WHALEN, WYATT, GOULD, CLARK, RUSSELL, RICE, NELSON AND MEASURE** voting no.

EXECUTIVE ACTION ON HB 773

MOTION: REP. STICKNEY moved to adopt the amendments. There is concern about the process of picking up persons as a service to the mental health personnel, they do Mirandize them. The mental health person who answers the call comes and makes a judgement if the person needs hospitalization, or goes through an appearance for determination of where this person will be placed or is judged to be able to be sent home. The concern of the constitutional rights begin with the patient's need to make arrangements for an appearance. At that time it is more appropriate for the county attorney to discuss the constitutional rights that person should expect during the hearing. The amendment she is offering takes care of the problem. Starting at line 12, "the Notice of Rights to Be Given", whenever a person is in involuntary detained pursuant to 53-21...that person shall prior to appearance, be informed of his constitutional rights and his right under this part by the County Attorney. Within three days of such examination or detention, he must be advised of his right to an attorney. She has taken out the examination language because it is at that point that the mental health person is there. It is changed to "prior to the appearance" that he be informed of his constitutional rights.

DISCUSSION:

REP. TOOLE said reading of these rights parallel what is done in the federal system. The federal system is oriented toward making sure the defendant knows his rights before confessing if something could be used against him in trial. That is not nearly as pertinent a consideration in these kinds of cases as it is in the criminal system. He agreed the timing, reading those rights up-front to the person, as the law now requires, and as this bill would continue to require, helped him to support this Bill. Statements made during the course of examination are still going to be available to the person doing the examination to assist that person to determine whether the person is mentally ill and a danger to himself. The concern about Fifth Amendment and privileges is more pertinent to the criminal system than it is to this. He supports the concept subject to peruse.

VOTE: Motion carried unanimously.

MOTION: REP. WYATT moved HB 773 DO PASS AS AMENDED.

Discussion:

REP. DARKO said if the County Attorney was not available, who would then be called. **CHAIRMAN STRIZICH** said it means the County Attorney or his deputy.

REP. BOHARSKI asked who would be considered as the representative in this case, if it were a small county with a part-time County Attorney. **REP. STICKNEY** said when applying for a hearing that is not necessarily an emergency. **REP. TOOLE** said he was not real familiar with those provisions, but he knows they set up a series of hearings on very short period of time. There are no more than

five days detention.

REP. TOOLE said the initial hearing generally takes place within the first twenty four hours. If there is cause for detention then there would be a disposition hearing usually 48 hours to three days. If there is an extreme case, it is the County Attorney and other people who get together to get somebody moved swiftly to Warm Springs.

VOTE: Motion carried unanimously.

EXECUTIVE ACTION ON HB 789

MOTION: REP. BRUCE MEASURE moved HB 789 DO PASS AS AMENDED.

Discussion:

REP. TOOLE asked about the repeal of the Bill. This repeals Section 10, all of the statutes, that were passed a couple of years ago that established the new business of processing. **REP. MEASURE** said it does. Actually, it didn't repeal all of them. It retains the most lucrative portion of that, which is the levying of that on a certain portion in the proper section of the code. The reason for that is there is no protected area in the processor. It is basically a waste of time. There is a conflict in the law between the rules of civil procedures and this Act. The Supreme Court does have authority in this situation. The Rules of Civil Procedure take precedence. He thought this would resolve everybody's problems. **REP. TOOLE** asked about the paralegals who might be in competition with HB 36. They delicensed the process servers which concerns him. He uses them to serve complaints. Since most of it was repealed, he is concerned about its future. **REP. MEASURE** asked if he was going to stop using the firm he uses in Missoula. **REP. TOOLE** said he won't use them if they are not in business.

REP. RICE asked the questions the opponent raised about individual appointments from each court instead statewide certification. **REP. MEASURE** stated that because of his bond, that it allowed posting bond in any court in Montana. He was concerned about selling property that he had levied against.

VOTE: Motion failed 9-11. **EXHIBIT 1**

REP. MEASURE moved to adopt HB 36. **CHAIRMAN STRIZICH** said they had to reconsider HB 36. **CHAIRMAN STRIZICH** said he would accept a motion to reconsider tabling action.

MOTION: REP. MEASURE moved to reconsider tabling action.

REP. LEE asked if they should reverse the vote and put HB 789 out first.

MOTION: CHAIRMAN STRIZICH said they have a Substitute Motion to table HB 789.

VOTE: Motion to table HB 789 carried unanimously.

VOTE: Motion to reconsider HB 36 failed 11-9. **EXHIBIT 2**

EXECUTIVE ACTION ON HB 821

MOTION: REP. TOOLE moved HB 821. There are amendments worked with out with Rep. Whalen. The change makes an exception for situations where there is a need to file applicable environmental laws that the right of eminent domain might be reserved to the mining company. It is a concept amendment. He did not want to move the amendments.

REP. WHALEN said he was concerned about eliminating this provision. He does think there are legitimate instances in which large mining companies could be put in a position where they can't develop it. All of the major operations have to go through an environmental impact statement phase. What is the purpose of going through that and then not being able to acquire the land to do the roads etc. An obstinate landowner could prevent the best land being used. The language contained in Subsection 5 of the Bill, line 22, page 2 need to be dealt with. That right of condemnation would be available to the mine owner or operator in the event that it is required to advance the environmental protection goals articulated in a properly prepared environmental impact statement. That is the concept amendment.

REP. WHALEN moved the amendment.

Discussion:

CHAIRMAN STRIZICH asked if that includes something beyond mining. He said many of the current processes do more than just mine at the site. There is some processing that occurs quite often at the site of the mine. **REP. WHALEN** said it would extend to any processes related to mining such as ore reduction. It would affect anything covered under environmental impact statements. The conclusions are that this is the best way to go to protect the environment.

Mr. Fitzpatrick, Director of Community and Governmental Affairs, Pegasus Gold, said he appreciates Rep. Whalen's amendment. Unfortunately, this doesn't solve the problem as completely as he thinks it might. There are three issues. In order to do the kinds of studies that are necessary to identify preferred alternatives to roads or tailings, there must be access to that land. Studies of the properties can't be done unless the companies can get on the land. The companies can't identify preferred alternatives. The second issue is that if the company has to wait until an environmental impact statement is completed and the permit is granted before eminent domain can be used, one to two years have been added to the process required to open a mine. Eminent domain is not a quick process. It is lengthy and if a company is waiting for the identification and permitting of the preferred alternatives, it will add years to the process. The third issue is that particular provision does not solve the problem with access to minerals. He referred to Butte. The surface state has been severed many years ago. There have been many fractions of the property. Some people hold out for large amounts of money. That is when eminent domain has been used most of the time. He thinks within a short time Montana Resources may have difficulty maintaining its mining operations if it loses the balance of the eminent domain process.

REP. WHALEN said something must be done to address the problem where other people have the right to use their land also. There has to be a balance. The balance should fall where public policy can be determined in an environmentally sound manner.

VOTE: Motion on the amendment carried unanimously.

MOTION: REP. TOOLE moved the Bill as amended. He thinks by connecting the right of eminent domain to an identification of need to building an extensive environmental review, they have connected with the public interest in progress. Eminent domain is a power used to build highways. It has been extended to utilities because utilities serve all the people but it has rarely been extended to anyone else.

REP. LEE asked if people walk around the land to determine if a mining company could use. **REP. TOOLE** said he wasn't sure what Mr. Fitzpatrick was referring to. **REP. TOOLE** said he thought there was not much litigation for eminent domain. The Bill as amended pertains to that. The threat is there in the amended Bill.

REP. WHALEN said as far as collecting information for an environmental impact statement he said he was more familiar with the ASCS officers. They can determine much of the land by aerial studies. Ground water can be determined by drilling holes. He doesn't think that most landowners would refuse access to their land when these things are going on.

REP. KELLER said if the state suggested two alternate sites, it still would require five metal leases.

REP. LEE asked if the amendment restore most of the stricken language in the Bill. **REP. WHALEN** said in all instances eminent domain could be used. Its use is conditional upon it being used to affect the environmental protection goals articulated in a properly prepared EIS.

REP. DARKO said she has relatives in Pony who didn't think the mill siting there was going to do much environmental damage. The potential endangerment of their water source is a concern. She doesn't know if things would have been better in that siting if this legislation had been in affect at that time.

REP. NELSON gave an example of the land they owned in the Williston Basin Area. A gas company said they would use eminent domain for the land across from their house. They were compensated for the land but the effects of this have been considerable. There are gas lines, a noisy motor and sour gas filling the house. She urged passage of this Bill.

REP. R. JOHNSON said he voted for Rep. Whalen's amendment because it is helpful on this Bill, in the unlikely event that it passes. He agrees with everyone who wants to keep the state as well as possible. He thinks they need to think hard before they start chopping away at the industries. He thinks this will erode the economic base.

REP. BECKER said she tried to find out how many other states have a similar law. They don't. New Mexico does not allow eminent domain by mining companies. We don't need it because other states don't have it.

REP. WHALEN said resource taxes have been cut for the past two sessions. The entire purpose of the Coal Severance Tax was to pay for the impacts of mining. If they are going to reduce the ability to pay for the impacts of mining, they ought to address those impacts be requiring that this power, eminent domain, ought to be reserved only for those instances where it is necessary to perpetuate the environmental goals contained in a properly conducted environmental impact statement.

REP. LEE asked Rep. Becker if no other states in this area were using eminent domain. **REP. BECKER** said she did not have information of that. She saw the statute from New Mexico. New Mexico is a mining state.

VOTE: Motion carried 11-9. **EXHIBIT 3**

HEARING ON 920, 921, 922 AND 923

REP. PAULA DARKO, HD 2, Libby, said the four Bills are sponsored at the request of the Department of Child Enforcement Services

and Department of Social and Rehabilitative Services (SRS). The reasons for the Bills coming as a package are because they all deal with the same thing: that is supporting the statutes and federal regulations.

The first Bill, 920, is a revision of the paternity statute limitations. 921 requires parental social security numbers of statistical information of the birth certificate only not on the birth certificate. 923 has to do with automatic income withholding. There are some changes in order for Montana to qualify for federal reimbursement. The last Bill, 922, is the administrative procedure for modifying child support orders.

Proponents' Testimony:

John McRae, Department of SRS, Child Support Division, said the federal government requires states to have child support enforcement programs. That began in Title 4D of the Social Security Act in 1975. Since that time Title 4D has been amended on several occasions. It was again amended in 1988 by the Family Support Act as part of the Welfare Reform Package. If these Bills, as required by the federal governments, or the procedures that are required, the state's can suffer monetary sanctions. The sanction may run from one to six percent of the entire federal funding. If there is failure to perform a function that is required, there can be a sanction for noncompliance. They can also have sanctions imposed if they do not have the laws or procedures that are required by the feds for them to have.

The first Bill, HB 920, amends the statute of limitations. In 1984 amendments to the Social Security Act require the states to have the ability to establish paternity for a child at any time prior to the child's 18th birthday. While this particular statute has been amended several times it never met the federal requirements until 1987. In 1988 the Family Support Act came into play. That Act said not only must a person do that at any time, but all of the paternity cases that have been closed must be retroactively revived. That is the additional language. There is another problem in reviving paternity action is remedial. What he is concerned about is that when paternity is revived, they also potentially revive the father's liability to the state for past support they have. A retroactive revivement of a liability situation could be a conflict with Montana's State Constitution. So, in addition to reviving the paternity part of it, that the liability is not revived. That still conforms with the federal language. There has been a recent U.S. Supreme Court decision, Arizona vs. Satsias. They threw out a statute of limitations in a presumed fatherhood situation. This is not to be confused with this Bill.

HB 921 is a part of the Family Support Act that requires parents to provide social security numbers with birth records at the time they are registering the birth records. The reason that Congress has done this is that Social Security numbers are perhaps one of

the best tools that are available to the Child Support Programs for locating absent fathers and their assets. It would only be disclosed by the Bureau of Life Statistics. It can only be used for Child Support Enforcement purposes. There are sanctions to any individual who may violate that confidentiality.

HB 922 creates a new process to modify a child support order. It also requires at a three year periodic interval that every case they have be examined for possible modification. In this instance for carrying this out, was left to the state. The problem is that modification must be done in the district court system. There volume is too large. There is a problem with 56 possible programs. The program only has five staff attorneys for the entire state. At times there is a conflict-of-interest situation when the state is the obligator and an obligatee. To avoid the situation, they would have to go into the district court to seek a reduction. To avoid that they have set it up so they are in essence, a neutral party to the obligation process. The hearings officer is responsible for soliciting information. This process is an advantage to the state and to the individuals involved. This process will cost the individuals nothing.

The Family Support Act requires that each of the states have immediate income withholding for individuals who are required to pay child support. In 1984 the amendments required that state to have a process for income withholding based on a thirty day delinquency. In 1989 asked for immediate income withholding. Since passage of it, the federal government has come out with more specific regulations. In addition to the federal regulations, they have lived with this process for a year and a half. Part of this Bill is a retreat from the existing process. The bottom line was that the entire withholding process would pay for itself and not cost the state anything. Unfortunately, the obligees often would not fill out the applications and were not informed by their attorneys that it was necessary. There were problems with many of the judges around the state. They have slit the process into two parts. They removed the immediate withholding and put it into part 3. If the individuals do not want the state's services, they may do it on their own receipt. This Bill contains an innovative process for adapting income withholding to the enforcement of medical insurance. There are procedures in place. One of the procedures is a court remedy. They are complex and time consuming and there are not the resources to do it. There is an administrative process in place that they have had for several years. That process is a procedure of levying fines or penalties for a person who does not have the insurance as required. That process has worked somewhat but there are some individuals who would rather pay the fine than to pay the insurance. Washington State has a process that if medical insurance is available to the obligator parent at his place of employment or at his union, his employer can enroll this individual into the insurance plan and deduct the premium, if any, from the individuals' income. This has been in place in Washington for two years. A similar process has just been

introduced in Utah. There has been an attempt for a state activity for individuals who do not have insurance available to them through their employment. Washington State does have such a program available and for individuals without insurance, they are enrolled in the state plan and the premiums are then deducted from income. They have found the ultimate goal of getting more children into private medical insurance rather than into public medicaid system.

Colette Baumgardner, Democratic Women's Caucus, supports the four Bills.

Opponent's Testimony: None

Questions from the Committee:

REP. TOOLE asked if these are major provisions of child care law. **Mr. McRae** said yes.

Closing by the Sponsor: REP. DARKO said there had been some trouble in drafting and that is why these Bills are all being heard the second to the last day of hearings. These are important in that they conform the statutes to federal regulations. There will be financial problems if our state does not conform.

HEARING ON HB 942

REP. GARY BECK, HD 48, DEER LODGE, said HB 942 is another Bill that affect military personnel upon activation and call-up. There have been some good bills that have passed through the House concerning benefits, pay and concerning leave. HB 942 would provide for Power of Attorney and provide an immediate and effective date. This law puts into effect a form that is copied from a Minnesota law that was taken from the Uniform Laws. This has been used successfully in Minnesota. **EXHIBITS 4,5**
He read from a letter from the Minnesota National Guard from a Judge Advocate Officer there. With Desert Shield there was a need to use the statutory short form Power of Attorney has simplified and sped-up the legal portion of this process. **EXHIBIT 6** This Bill would not cost the state. In Minnesota private companies printed the forms. A copy of the form could come from the statutes. This form is a good form for low income people because it gives them speedy access to the law.

Proponents' Testimony:

C. J. Lassila, Montana Army National Guard, Headquarters Company, 163 Armed Brigade, said as an attorney with the state, she frankly says this form would serve a benefit to the soldiers as well as to the members of the reserve within the state who are potential candidates for a trip to Saudi Arabia.

This Bill, if it goes into law, would allow this Power of Attorney to be around after that conflict. It can provide an on-going service through their office to the soldiers.

Captain Tom Muri, Staff Judge Advocate General, Montana National Guard, said there were deployed people who did not have an opportunity to take care of their legal affairs before they left. There are significant problems because of this. This short Power of Attorney would have greatly alleviated that problem. This Bill will assist up-coming additional people who will be mobilized.

Major Heffelfinger said in the twenty years he has been involved in the service, each of the three times he was involved in a war, it required more work to get the Power of Attorney. It is difficult to find an attorney to do it on short notice and then the document was lengthy. The focus will not be just for the military, it will be for people who are less advantaged.

General Ron Adams, 163 Brigade, said he commands approximately 3,400 personnel. The members of the reserve component are subject to active duty as had been exhibited over the past six months for Desert Shield and then Desert Storm. He is responsible to see that all members of his command are taken care of in all facets of their membership in the military. One thing that does bother them is to be sure their personal affairs are in order before they begin training. The training, the qualifications and the personal affairs and time are valuable when they are preparing for mobilization. Anything that can speed up taking care of other things so he can prepare his people is a plus.

Major General Greg Blair, Adjutant General, State of Montana, said Desert Shield and Desert Storm required the activation of significant numbers of Army Reserve and National Guard soldiers in Montana. He reviewed the legal assistance provided. The proposed legislation would assist them in assuring that they are always ready to meet the mission. Desert Storm was the largest deployment of soldiers since World War II. This proposed legislation would assist them to maintain their high state of readiness. More importantly, it would help the individuals in the service and to their families.

<u>Opponent's Testimony</u>: None

<u>Questions from the Committee</u>:

REP. R. JOHNSON said he is in favor of the Bill. He asked what is the difference between a General Power of Attorney and a Durable Power of Attorney. Does this type of document create a durable Power of Attorney. **Mr. Muri** said the bottom of the document would indicate that it would cover a durable Power of Attorney.

REP. R. JOHNSON referred to page 50, line 1. It says it creates a non-durable Power of Attorney. **Mr. Muri** said he would like time to review it.

REP. WYATT asked in terms of intent would there be individual counseling. **Captain Muri** said it would be a mass hand-out. It requires a notarization. From army regulations their officers have to be legal assistants and have to counsel them on this particular document. In a mobilization environment there are various documents, but the ones they are most concerned about are wills and a living will. They also do Power of Attorneys. He passed around the sample that he had done. The Institutions are not happy with those Power of Attorneys. Power of Attorneys do not have to be accepted by the banks or organizations. They do not like to give out general Power of Attorneys if a Special Power of Attorney will suffice. They always receive strict counseling about the difference between General and Specific and they avoid preparing these Power of Attorneys on a daily operation of business.

REP. MEASURE asked how many attorneys and how many personnel they have. **Captain Muri** said the Montana National Guard has two staff judge advocates assigned to headquarters. There are 4,000 thousand Army National Guard and 1,110 Air National Guard. In addition, upon mobilization they acquire 450 Army Reservists. There are approximately 1,500 - 2,000 Army Reservists. In addition, there are two units of Navy Reservists. Each of them have 200-250. There are also individuals in Ready Reserve. There could be 5,000-7,000 in a long drawn-out war being mobilized in a very short period of time. The Montana Bar Association has a pro-bono situation to assist them. In the military there are household goods, medical conditions and divorced status to be considered.

REP. KELLER asked how many military are involved. **General Blair** said there are 5,000 members. In the total reserve there are 3,000. They have in active duty in all of the armed forces in excess of 10,000 people. They could be required or asked to assist especially active members.

REP. MEASURE asked if he was from Malmstrom. **General Blair** said he was the head of the Department of Military Affairs, State of Montana. He was in charge of Air and Army National Guard plus Veteran's Affairs and Disaster and Emergency Services. **REP. MEASURE** asked how many staff and attorneys there are throughout the state. **General Blair** said there are probably twenty to twenty five. It is set up to allow for assistance if needed.

<u>Closing by the Sponsor</u>: **REP. BECK** said he thinks this is an important Bill for the military.

HEARING ON HB 584

REP. JIM SOUTHWORTH, HD 86, Billings, said HB 584 is a Bill to limit the amount of attorney's fees payable to a defense attorney in a worker's compensation case.

Proponents' Testimony:

Don Burris said he personally and professionally opposes what the Legislature has done to pay the attorneys and injured workers in workers' compensation cases. He thinks much of it is unconstitutional and has been litigated. He hopes the legislation will be equally applied to the employee's attorney as well as to the defense attorney. The employee's attorney gets a percentage of what the injured employee gets. If the employee gets nothing, then the attorney gets nothing. The expenses of the defense attorney come from a direct expense to the Fund because he gets paid no matter what. There is great disparity between fees paid.

Lloyd Hartford, Attorney, Workers' Compensation Division, said he does support this Bill. He thinks the present system condones a great deal of abuse on the part of the defense attorneys in this state. The defense attorneys have control in deciding which issues they will take on appeal to the Workers' Compensation Court or to the Supreme Court. The plaintiff's attorney do not plow the field. They submit the number of hours worked on the case to the Workers' Compensation Court. This Bill says if the attorneys for the defense counsel do not win on the issue then they do not get paid for this. He thinks if this Bill were enacted then the plaintiff's attorney had submitted this they would not be paid. He questions using outside counsel to represent State Fund when it has inhouse counsel that it can use to represent the State Fund for issues on attorney fees.

Dan Edwards, Oil Chemical and Atomic Workers International Union, said he supports this Bill. He is concerned about what is happening in the Workers' Comp area. He thinks it will be difficult to find attorneys to represent workers in Workers' Comp cases and yet, there is no limitation on the amount of money that a defense attorney can charge. There should be an attempt to keep level playing fields. The savings to the Fund are obvious.

Opponents' Testimony:

Jim Murphy, Executive Vice President, State Compensation Mutual Insurance Fund, said this Bill has a number of problems. **EXHIBIT 7**

Judy Browning, Deputy Attorney General, said she agreed with Mr. Murphy that this is a lose-lose proposition. The Attorney General has seven attorneys who are assigned to a Bureau called Agency Legal Services. Those attorneys represent the agencies from the various Departments and they handle work comp cases.

The Agencies Legal Bureau is funded by proprietary fund account. The fees are charged to the agencies and amounts to $48.00 per hour. The Agency is considering increasing the fees to $53.00 per hour. If this Bill were to pass, an Agency Legal Services attorney would handle a workers' comp case and prevail, as Mr. Murphy explained, they would get nothing because the injured worker's attorney would also get nothing. If they did not prevail, they would get nothing because under the second Section there cannot be a fee if a person does not prevail. They would be without any money to fund those seven attorneys who are now handling work comp cases. She urges a Do Not Pass.

John Alke, Montana Defense Trial Lawyers, said they do oppose the Bill. He would add that there is a substantial difference between contingent fee agreement taken by the plaintiff and the hourly fee by the defendant. The plaintiff does not have to go on a contingent fee. The plaintiff can also elect to pay his attorney on an hourly basis. It is the desire in most cases of the plaintiff to take a contingent fee because they get to litigate free. If they lose, they don't have to pay their lawyer anything. If they win, they then pay their lawyer, 25% of the winnings. He does not have to go on a contingency basis. In contrast on the defense side, a person can hire somebody on an hourly basis. There is no contingent fee, there is no money to be won. This Bill is not a level playing field. There is a fundamental difference between a plaintiff and a plaintiff's lawyer who elect to use a contingent fee and a defense which must pay on an hourly basis.

Jacqueline Terrell, American Insurance Association, said they oppose the Bill. She wanted to remind the Committee that the State Fund is not the only agency that is involved or that employs defense attorneys. Private insurers of which there are less than insured with the State Fund, also retain defense counsel in workers' compensation cases. The cases that do go before the court, are there because there is a dispute between the parties that needs a partial decision. It is not to be assumed that because the claimant brings the matter to the court that the claimant is to prevail. She urged a Do Not Pass.

Questions from the Committee:

REP. WHALEN said he thought the observations in regard to the fee system were accurate when talking about the general personal injury field but with Workers' Comp those contingent fees are limited. The State Fund and the Division have also limited it to whether or not an attorney could prevail on a particular issue. Workers can be prevented from getting attorneys to represent them because they can't pay the attorneys enough to compensate them. **Mr. Alke** said no. He did not intend to be critical of the contingent fee system. The situation described is the symmetry which justifies the claimants' lawyer making a great deal of money in certain cases where he has to pay very little in cost and has to put very little time in.

REP. WHALEN asked if the contingent fee system works well in workers' comp cases because it is limited. **Mr. Alke** said one difference between workers' compensation and standard court system is that in the workers' compensation system the subject of law is specifically designed to give enormous advantage to the plaintiff. There are numerous presumptions that are designed specifically to make sure that in case of a close decision, the claimant wins. That is not the case in standard court litigation. The limitations in the work comp side on the contingency, especially when 25 percent is the ceiling, is designed to favor the plaintiff.

REP. WHALEN asked if she had ever worked in private practice and experienced the differences in paying cost when employed in private practice as opposed to being employed by the government. **Ms. Browning** said no, she understands the reason they can charge $48.00 per hour is because they can absorb much of the cost which otherwise would be overhead in a private firm. They charge the agency they represent. If they are unable to collect for the time they spent, they cannot pay them. **REP. WHALEN** asked if that is why they go out and pay the private attorney more than $48.00 per hour. **Ms. Browning** said that would certainly be a factor.

REP. R. JOHNSON asked if they took out of the Bill references to attorneys and descriptions of those attorneys would they end up with a clean situation. **Mr. Murphy** said he was not convinced that any type of legislation that limits expenditure.

REP. TOOLE asked if the amendments passed in 1987 were designed to eliminate representation of claimants by attorneys in the system. **Mr. Murphy** said the amendments in 1987 were an attempt to reduce litigation. **REP. TOOLE** asked if the effect was to cause attorneys to leave the practice as to new law cases. **Mr. Murphy** said he could not draw that conclusion. They had not done a statistical analysis. It appears there are attorneys representing claimants on new law cases. **REP. TOOLE** asked if they have any statistics under the new law, since 1987, have been paid out to defense lawyers on those new law cases. **Mr. Murphy** said he could obtain the information on the amount of fees they would pay their defense counsel on new law cases. They have no way to know what claimant's attorneys receive on new law cases. The case that has gone to court could be checked. **REP. TOOLE** said the new law enacted in 1987 was designed to eliminate any payment of lump sum benefits. **Mr. Murphy** said it was designed to provide an agreement between the claimant and the insurer as to the amount of the lump sum. If there was no agreement, the law said the court did not have jurisdiction. That has been overturned. **REP. TOOLE** said the effect of that was to eliminate lump sum payments. **Mr. Murphy** said not in the State Fund. Even before that court decision, they were still settling and paying lump sum. **REP. TOOLE** said in new law cases attorney fees were restricted to portions of payments made out over the long term and the future. **Mr. Murphy** said he would refer that to their legal counsel.

REP. TOOLE said the intention of the new law was to require payments to be extended out over the life to the future. **Mr. Murphy** said the biweekly payments, even in the old law, were to be the rule. The exception was the lump sum. It didn't turn out that way. **REP. TOOLE** said those various provisions enacted in 1987 had a significant effect on attorney's fees. He asked if there was anything in the 1987 law that was intended to regulate the attorney's fees. **Mr. Murphy** said no.

REP. R. JOHNSON asked about the newspaper article stating the State Fund paid a large sum to attorneys this past year. **Mr. Murphy** said he didn't recall a list of what the State Fund paid. **REP. R. JOHNSON** asked if it was $8 million. **Mr. Murphy** said it could have been.

REP. GOULD suggested that Mr. McMaster put all lawyers under the Public Service Commission.

Closing by the Sponsor: **REP. SOUTHWORTH** said to consider the fairness issue. He said to consider the savings to the unfunded liability.

HEARING ON HB 772

REP. J. RICE, HD 43, East Helena, said HB 772 is a Bill from the Department of Family Services, which abolished the youth placement committees established under the Youth Court Act. There are proposed amendments to the Bill that may resolve the parties involved.

Proponent's Testimony:

John Melcher, Jr., Attorney, Department of Family Services, submitted testimony. **EXHIBIT 8**

Opponents' Testimony:

Dick Meeker, Juvenile Probation Officer, First Judicial District, submitted amendments to HB 772. In 1987 the Juvenile Probation Association, along with the Governor's Office and SRS, joined together with the Legislature to set up the Department of Family Services. The reason they did that was that a new department could perform functions for youth more effectively in Montana than was presently being administered by the Social and Rehabilitative Services. One concept they developed was a community-state relationship. One of the ideas was the Youth Placement Committees within each region. It provided the community input to the child and what placement and what treatment shall happen to that child once the court takes action.

He and his association have to totally object to HB 772 as drafted. It provides the state with ultimate authority to determine where a child shall be placed with no community input. A child from Libby, Missoula etc. would be submitted to the

central office and the central office would determine the fate of that child regardless of the community's input. It is imperative to look at the fact of the fiscal impact. Currently, the Department finds it difficult to meet the obligations it has with the present staff. Now this would be an added burden.

Randi Hood, Public Defender, Lewis and Clark County, said in her capacity she strongly opposes HB 772 as currently written. She is a member of the State Human Services Advisory Council and in that capacity, she opposes the Bill. The State Services Council is appointed by the Governor and has representatives from all facets that pertain to Youth Services. In December 1990, the Department of Family Services came to that Council with the Legislative package and asked for her endorsement of the Legislation. At that time those involved directly in Youth Court, including Judge Tom Olson, Bozeman and several county attorneys and probation officers looked at the Bill and said it would not work. Placement decisions should not be solely with the Department. The Youth Court knows the child and can obtain input from the child, his attorney, his family and make a good decision as to appropriate placement. The amendment is the best way to handle the problem.

She said there are two lawsuits pending in the Montana Supreme Court on the issue of whether or not the youth has been given adequate representation and the ability to speak on his placement decision before a placement committee. HB 772 removes the youth one step further. The youth has the right to call witnesses, cross examine, and all of the rights an adult has. She thinks there could be Constitutional problems with it. Even though the State has financial problems, the burden of appropriate placement is on the State of Montana.

The amendment states the Youth Court with all of its input from probation, from the defense, from the family and from the prosection would determine the placement of the child. **EXHIBIT 9**

Questions from the Committee:

REP. BROOKE asked if this Bill is a cost saving measure or is it just a revision. **Mr. Melcher** said no. The Department already has in place the procedure for making the ultimate decision. He thinks the process could run smoother without so many individuals. **REP. BROOKE** asked if Warren Wright from Missoula supports this. **Mr. Melcher** said he had spoken with Mr. Wright and he did support it. **REP. BROOKE** asked him to explain the relationship of the Youth Placement Committee and the Youth Advisory Council. **Mr. Melcher** said Ms. Hood could explain that. **Ms. Hood** said they are separate. The State Youth Services Advisory Council is a Council from many areas appointed by the Governor. One function is to advise the Governor and to advise the Department of Family Services as to what they consider appropriate services for youth.

There are local councils who make the same determinations and convey those to the State Council. The Youth Placement Committees are totally separate.

REP. R. JOHNSON asked for the names of the people who were on the State Board with Ms. Hood. **Ms. Hood** said Ted Williams, Flathead County; Judge Tom Olson, Bozeman; Craig Anderson, Glendive; John Wilkinson, Intermountain Children's Home; Joe McFadden, Mental Health, Great Falls; Sheriff from Miles City; Marty Helson, Preventive Services, Great Falls; Representative Mercer, Legislature and several youth representatives. **REP. R. JOHNSON** asked if the regional administrator would then appear in court for every child. **Mr. Meeker** said it was not anticipated that the regional administrator would appear. It is anticipated that the Juvenile Probation Officer would supervise the placement as is done under current law. **REP. R. JOHNSON** asked if they would make placements based upon the information provided by the Probation Officer. **Mr. Meeker** said that procedure would vary which would be an advantage of not having a statutory required procedure. It would be tailored to the region's particular needs. The Department would have formal procedure lined up to find out about the commitment. At that point, the regional administrator would use whatever resources were available for reviewing all of the psychologicals on the youth, reviewing records and obtaining new evaluations. It would be a more informal procedure. The regional administrators would welcome local involvement. **REP R. JOHNSON** asked if prior to this position, did the regional administrators had no intention of having input as to the disposition that is found in court. **Mr. Meeker** said no because it is up to the judge whether or not the youth would be committed.

Closing by the Sponsor: **REP. J. RICE** said there is a compelling argument that can be made for the Bill as introduced. He would like to wait for Executive Action until they are certain the amendments would satisfy the concerns.

HEARING ON HB 931

REP. S. RICE, HD 36, Great Falls, said HB 931 deals with court bailiff expenses. Under HB 931 the court would be assessed a $10 in civil actions in order to pay for the bailiff. On page 1, line 19, the underlying section, it allows for the establishment for procedures for court bailiff expenses. Page 2, line 13, allows for the additional filing fees. Page 6, line 5, 10 is struck and 20 is inserted. They are taking the fee of $10 and increasing it to $20 and allowing the additional $10 to be used to pay district court expenses and the remainder to pay the bailiff expenses as provided in an earlier section. Section 4, the new section, gives the Supreme Court administrator the ability to determine the total amount and how it should come back to the county for payment of the district court expenses.

Proponent's Testimony:

Barry Michelotti, Sheriff and Board Member of the Montana Sheriff and Peace Officers Association said HB 931 is a method to increase the funding for the district court bailiff. Under state statute the sheriff when he is the bailiff, has to take charge of the jurors for both criminal and civil proceedings. Currently, in most counties the charge for that service comes out of the County General Fund, more specifically, the sheriff's budget. In some counties the court budget pays for the bailiff. Current statute allows that on all fees collected for a civil action filed in district court, it allows an additional $10 to be levied as part of the court reporter's salary. HB 931 would allow the additional $10 in addition to the court fee to be paid for the district court bailiff.

Opponent's Testimony: None

Questions from the Committee:

REP. GOULD asked how high they could go with charges on filing fees. The judges came in looking for an additional $12,000 per year which will be paid by increasing filing fees. There are going to be many of them. **Mr. Michelotti** said he couldn't answer that. He said the manpower shortages in sheriff's departments were real in all counties. Each county has lost its public safety officers due to budgetary costs and restraints. This measure would allow them the latitude to have additional money to pay for the court bailiff.

REP. WHALEN asked if someone asked her to introduce the Bill. **REP. S. RICE** said the sheriff of Cascade County requested the Bill.

Closing by the Sponsor: REP. S. RICE said it is a small bill that could make a difference of public protection available in the counties.

HEARING ON HB 766

REP. RUSSELL FAGG, HD 89, Billings, said HB 766 would increase the maximum penalty for DUI for the first violations to six months, now the maximum penalty for DUI is sixty days and for a first offense is ten days. The reason not to have greater jail sentences. The reason is to have jurisdiction over these defendants as they go through the system and do their DUI court school and as they pay their fines. This is a bill on behalf of the Magistrates Association. The problem is after ten days for the first misdemeanor and after sixty days for a DUI the court loses its jurisdiction over that defendant. If a defendant refuses to go to a DUI court school or refuses to pay the fine, the court can't do anything to that person. They would like a standard sentence to be six months with all but one day suspended and then the court has control over that person for a six month

time period. This is not a Bill to increase the penalties, or the jail time for either of these offenses. This is a jurisdiction Bill. The fiscal note says that the general experience is that judges on first DUI convictions provide the minimum jail sentence which is one day.

Proponent's Testimony:

Pat Bradley, Montana Magistrate Association, does support the Bill. She submitted written testimony. **EXHIBIT 10** Mandatory completion of a chemical dependency program takes several weeks. For application of the program a four week course of treatment is necessary. Fines and accompanying fees and alcohol-related offenses amount to an average of $500. Many defendants request time-pay agreements to pay their debts off in installments. The court must grant these. For all of the reasons the courts need adequate jurisdiction time periods to accommodate the defendants. The standard misdemeanor penalty statute allows six months jail time. Alcohol-related vehicle offenses are serious offenses to public safety and they also should fall into this category. They ask that the courts are given adequate time needed to insure the other mandates.

Opponent's Testimony: None

Questions from the Committee:

REP. TOOLE asked if there was a proposal out of the County Attorney's Association. **REP. FAGG** said the Magistrate's Association asked him to carry the Bill. **REP. TOOLE** asked if there is a need for the Bill. **REP. FAGG** said the need was the jurisdiction question. **REP. TOOLE** asked if the judges lose jurisdiction after sixty days. **REP. FAGG** said yes. **REP. TOOLE** asked if he was familiar with the bill that this Committee is developing to deal with situations where counseling is necessary and the time restrictions would lapse. **REP. FAGG** said he was not aware of that and if that Bill could cover the DUI situation then he would not have problem failing this Bill. **REP. TOOLE** said they had come up with a concept and they would present it to the Committee today or tomorrow. They will try to coordinate it.

Closing by the Sponsor: **REP. FAGG** said if the Committee Bill covers this situation the Committee could drop this Bill. It is important to keep the jurisdiction.

HEARING ON HB 783

REP. FAGG, HD 89, Billings, said this Bill takes care of two trials that are currently happening. This Bill would allow appeals only on the record. He does want to make an amendment to make it discretionary rather than mandatory. This Bill would state that a person has a right to go through a jury trial in city or justice court but they only appeal on the record. The city court or the justice court would have a tape recording or a

court reporter there. The defendant could appeal on the record issues of law i.e. if there were evidence problems, if a judge made a bad ruling on any number of matters then the district court would look at the record and decide if the lower court's proceedings should be reversed, modified and if a new trial is in order. The advantage of this Bill is that everyone gets a jury trial. He doesn't think it is appropriate for people to have two jury trials for the same offense. He would amend it on page 1, line 15, take out "must" and insert "may be heard on the record". If a small town doesn't want to do this they don't have to. If there is no court of record then the person could still have two trials.

Proponents' Testimony:

Pat Bradley, Montana Magistrate's Association, said they support the Bill with the optional provision. She submitted written testimony. **EXHIBIT 11** Justice Courts already use electronic recordings for trials in small claims courts for review in district court on appeal. This procedure has worked well. Judges of courts in limited jurisdiction are trained and competent in matters of law. Trials are part of their work on a daily or weekly basis. Judges use the same rules of evidence and have several courses of training of updating rules of evidence. Committees of J.P.s and city judges work with the Commission on parts of limited jurisdiction to revive their own Montana Justice Court Rules of civil procedure recently and now are working on the adoption process.

Bruce McCandless, City of Billings, said he has statistics prepared by their city prosecutor's office. This shows that over the past three years, 173 cases have been appealed to the district court. Those are cases that have been heard in the city court and have later been appealed to the district court. 41 of those cases have actually ended in trial. They estimate that between $300 and $1,000 is spent each time a new trial is held. The variation is due to whether it is a jury or non-jury trial. Between $12,000 and $40,000 has been spent in Yellowstone County over the past three years. They feel that the advantages of HB 783 are that it permits the court to be a court of record in the use of stenographer or an electronic record to produce that record. It would be relatively low cost to do that. It should help to reduce the appeals to district court and reduce the costs for the district courts and for the cities. It will help to stop the use of the city court as a means of discovery. They support Rep. Fagg's enclosed amendments.

Opponent's Testimony: None

Questions from the Committee:

REP. MEASURE asked if they wouldn't need to have a court reporter in order to actually develop a record. **REP. FAGG** said no. They envision that it would be the same as small claims appeals.

Those are done with tape recorders. **REP. MEASURE** asked if he saw a difference between criminal trial and small claims trial. With small claims there is a provision in the law in both justice court and city court and district courts for small claims that spell out the provisions and why they are allowed to use an oral transcription. **REP. FAGG** said he had looked into it and asked how it worked. The defendant's attorney points out a portion of the tape recording and where it is numbered, where there is a potential problem or error in the ruling by the judge. He just reads the before, during and after parts and it doesn't cause a problem. **REP. MEASURE** said there is a substantial difference between what is at stake in a small claim's action. They are limited to $2,500. In city court there may be a much more serious situation. He asked if the integrity of the record can be maintained in those situations where there are competing interests. **REP. FAGG** replied that integrity of the record can be maintained but if it wasn't the judge would order a new trial. That would appropriate and up to the district court judge. If the judge could not determine what had transpired in the city court, then the judge would order a new trial.

REP. TOOLE asked if they had passed one of these Bills, for the municipal courts. **REP. FAGG** said they did. **REP. TOOLE** said it was Rep. Whalen's Bill. **REP. FAGG** said yes. **REP. TOOLE** said he thought the primary difference is municipal judges are lawyers. **REP. FAGG** said yes. **REP. TOOLE** said this would extend it across the board. He asked if he saw any problem with this. **REP. FAGG** said he did see a problem with that. That is the argument against this because non-lawyer judges will make this case. He thinks the argument can be refuted rapidly because the district court judge is a lawyer and he is going to be able to see the mistakes if they are brought up to him or her. They can modify, reverse or order a new trial. **REP. TOOLE** said he thought municipal court law has been underused. He said that since Rep. Whalen's Bill had passed they will give it an opportunity to work. They use a tape recorder there. He thinks that is the most problematic part of this. He asked what would be the District Judges' reaction to receiving a tape and having to sit down and listen to a three to six hour hearing trial if there is not a transcript. He wonders about the practicality. **REP. FAGG** said he had the same concern. **REP. TOOLE** asked if there had been a poling of district court judges as to how they would take to receiving the tapes. **REP. FAGG** said the district court judges did not have a lobbyist this year. All of the judges in Yellowstone County supported the Bill. There was not a polling. **REP. TOOLE** asked if this allows the justice's court to decide which type of record it will require. **REP. FAGG** said it does allow for either a court reporter or a tape recorder. **REP. TOOLE** asked at whose decision. **REP. FAGG** said it was the lower court. **REP. TOOLE** asked if the district court wants a transcript how would that work. **REP. FAGG** said they could add a sentence. "If the district court so requires the lower court shall provide a transcript." **REP. TOOLE** said that would raise the cost of those proceedings and the cost-effective edge would be lost.

REP. FAGG said yes and that would be pointed out to the district court.

REP. BOHARSKI asked what is the difference between the fact that one is written and the other is taped as far as material is concerned. **REP. FAGG** said they should contain exactly the same material. Of course, the likelihood is greater with the tape recorder that there could be a mechanical problem **REP. BOHARSKI** asked if there were a mechanical problem would that be a situation where the district court judge would just say there would be a new trial. **REP. FAGG** said yes. **REP. BOHARSKI** asked if that would be on line 20 strike the lines that there would not be a trial. Would the line be changed. **REP. FAGG** said there may not be trial if the lower court makes itself a court of record.

Closing by the Sponsor: **REP. FAGG** said he didn't know if Rep. Whalen would resist the Bill. It is a good Bill and the protection is there. It should help out district courts and the city attorneys' office.

HEARING ON HB 912

REP. TOOLE, HD 60, Missoula, said HB 912 is a Bill that provides for an increase in the basic policy limits for auto insurance. Current policy limits have been in place for more than a decade. During that time there has been substantial inflation. As a result of inflation, judgements and settlements have increased for injuries but there haven't been adjustments in the minimum liability coverage. The result has been to look elsewhere for the funds to pay medical bills, and lost wages. The changes are laid out on page 2. The old limit for the death of one person or the bodily injury to one person was $25,000. This Bill sets the limits at $50,000. The minimum for two or more persons have been $50,000, it goes to $100,000. There is a property destruction limit of $10,000, it has been raised to $15,000. The cost on a policy of insurance it obviously one key question. He said the representative of State Farm did not have an exact figure, but the thought was that it would be $50 for one insured, one vehicle per year. A similar Bill by Rep. Whalen was presented to the Highways Committee. The real issue is will the old amounts provide enough coverage if there is an accident where there are serious injuries. Limits should reflect what the injuries cost. The most likely problem could be that people would choose not to have the coverage. 60% of State Farm's insured have coverage of $100,000-$300,000. This Bill provides for minimal coverage. It is needed.

Proponent's Testimony:

Michael Sherwood, Montana Trial Lawyers Association, said injuries don't go away and the costs do not go away. There are people who do not get reimbursed and their lives are ruined. If the limits are not raised, the victim may pay the cost. There is a need to recognize that when someone is hurt, it doesn't go away

and someone may bear the cost. The cost should be covered by the person who is the wrongdoer. He should pay the money to the casualty insurers not the health insurers or the medical community.

Opponent's Testimony:

Jacqueline Terrell, American Insurance Association, said the American Insurance Association strongly opposes HB 912. If this Bill passes, Montana would rank in second place for the highest mandatory limits required in the nation. Alaska ranks first, with limits of $50,000 and $100,000 and $25,000. The most common liability limits required in the United States are precisely what Montana now has. The second most common are $15,000 and $30,000. If this Bill is passed the cost of required insurance will increase significantly. If the cost does increase there will be more drivers going without insurance. The cost of uninsured and underinsured liability will increase. That increase will be a disproportionate amount. Montana does not need this increase in limits. The majority of all claims against liability insurance for motor vehicle liability insurance are settled within the policy limits. 90% of all claims are settled satisfactorily. Rep. Toole said there should not be any restriction on the amount of coverage. **Ms. Terrell** said there is no restriction now. She said the existing floor has been adequate for Montana.

She said if the victim has to underwrite the cost of medical coverage due to an uninsured driver, the effects would be minimal according to her information from Blue Shield/Blue Cross. The rising cost of health insurance is due primarily to mandated benefits and to the cost of the services that are being rendered to the patient. Accident coverage has a minimal effect on the cost of health insurance.

If there are questions about the resolution of liability for an accident, then the injured person's lawyer can bring that matter to the courts for adjudication. A jury can then decide how much that person is entitled to recover. There is also the Unfair Claims Settlement Practices Act if there was bad faith in the denial of the claim.

Questions from the Committee:

REP. BOHARSKI asked what the fiscal impact of the insurance policies would be. **Mr. McGlynn** said the insurance department replied to the Highways Committee that it would average $80. For an adult with an average-priced car it would be maybe $40. In the case of a habitual offender with a terrible driving record it would be in excess of $100. **REP. BOHARSKI** asked if someone was underinsured would the insurance companies have to cover that. **Mr. McGlynn** said state law requires if there uninsured motorists, bodily injuries must be covered. State law is silent firmly on underinsured motorists. Many policies still offer it in this state.

The injured parties insurance under underinsured motorists may very well pick up the costs.

REP. WYATT asked about the limits. **Ms. Terrell** said these limits are a mandatory floor that every person is required to carry. If a person chooses not to carry more than that and someone is injured due to negligence then there will not be insurance coverage for that person. The next source of payment would be from individual assets. **REP. WYATT** said that wasn't her question. She asked if fault was disallowed, how is it relevant how much the individual is insured for. **Ms. Terrell** said she had misunderstood the question. It has no effect. If coverage is denied because the individual was not at fault, then there would be no coverage.

REP. GOULD asked if the limits weren't artificially low. **REP. TOOLE** said he is probably right. The only reluctance he would have is that he hadn't asked anybody about costs of the policies.

REP. BOHARSKI said he would like to add an amendment with a sign-off on underinsured insurants. He wondered if that would cause any problems for the insurance companies. **Ms. Terrell** asked if he was contemplating the same manner that an insured could reject uninsured motorists coverage. She wouldn't envision that would be a problem.

REP. KELLER said he had a constituent who was concerned about the people who had taken out an insurance policy, get a license and then they cancel. He asked how that would be addressed. **REP. TOOLE** said the problem with mandatory insurance is that there is a system that requires people to get coverage. It imposes severe sanctions on them if they let it lapse like that and then are caught. Criminal penalties were implemented in the late 70s and have become more severe since then. There isn't a no-fault system which provides coverage across the board. They don't assess people for it. **REP. KELLER** said he thought the people he referred to couldn't get coverage. **REP. TOOLE** said if those people are also bad drivers, then the criminal law and the drivers license bureau should be able to revoke to licenses. People with good driving records would still be able to absorb the costs. **REP. KELLER** said Sen. Towe had picked up a drafting request to allow seizure of cars for people without insurance. **Mr. Sherwood** said he is tracking at least two bills, HB 527 and another Bill, he needed to check on the number. They haven't resurfaced in Highways. Both of those Bills would allow seizure of the license plates and another requires that proof of insurance be given. HB 527 does require proof be given. They have supported this because approximately 40% of the people that at minimum but there is another percentage that they are unable to identify who have none.

REP. WHALEN asked about the example of coverage.

Mr. Sherwood said he used an example of an accident involving Sen. Van Valkenburg's brother where only $50,000 is available, if they can get it. The casualty insurance carrier has denied liability. **REP. WHALEN** asked on whose vehicle. **Mr. Sherwood** said it was on a vehicle driven by a seventeen-year old who ran a stop sign and hit the car. The hospital is out money and will be out more because limits are running out on health insurance and the only one who has paid was Diana. His point is that the risk is born by the wrongdoer and that wrongdoer should be required to get some insurance to cover that risk.

Closing by the Sponsor: **REP. TOOLE** said the more typical situation does use the policy limits even though the medical bills are several times the amount of those policy limits. People do settle for policy limits even though the total medical bills may be twice as much. The total value of the case for settlement purposes would be even more. The problem with the limits is that medical bills get to those medical limits rapidly and then there is no money for the lifetime of problems that this accident will have caused. The limits need more regular attention than every twelve years. Montana's rates for casualty are the 40th in the nation. The absence of the insurance agents in testifying against this Bill spoke volumes.

HEARING ON HB 839

REP. LEE said this Bill creates a whole new sentencing alternative for the Judge to use in misdemeanor cases where the actual goal in terms of the sentences is to get the defendant to treatment.

Proponent's Testimony:

REP. TOOLE said it was a good Bill.

Opponent's Testimony: None

Questions from the Committee: None

Closing by the Sponsor: **REP. LEE** closed.

EXECUTIVE ACTION ON HB 766

REP. WHALEN said the Bill will not increase jail time on the sentences but to give the court more jurisdictional time. As the system currently works is that the sixty days in jail with 59 days of probation. He thought the impression was that after sixty days the Court no longer has jurisdiction. That is not true. **CHAIRMAN STRIZICH** said that was the opinion of Rep. Fagg. They amended 201. 201 says "...sentence can be deferred or execution of the sentence can be deferred." When that is done, there are a number of things done. One is that any other reasonable condition necessary for rehabilitation or for protection. That can defer or suspend execution of a sentence

with the reasonable condition that the person attend a treatment course and if he doesn't attend the course he would be held in contempt of court. The problem is that many judges don't realize that court can require up to one year.

REP. WHALEN said this Bill doesn't say that. It says the penalties have gone up to six months in jail. **CHAIRMAN STRIZICH** said what they are talking about now is the Committee Bill.

CHAIRMAN STRIZICH said they would suspend discussion because they did not have enough people to vote.

EXECUTIVE ACTION ON HB 735

MOTION: REP. MEASURE moved DO PASS HB 735. He also had amendments that were suggested to address the problems.

MOTION: REP. MEASURE moved the amendments be adopted.

Discussion:
REP. TOOLE asked for an explanation of the amendments.

REP. MEASURE said the amendments change where it is codified. The first three or four amendments change the title somewhat and provide that this agreement contain requiring a payment of claims. The further amendment that goes to Section 33-18-201 is an unfair claims and settlement practices. Mr. Sherwood amended it to include clause 15. The only change in the amendment is on page 2, number 15 where it also includes "failure to promptly pay incurred medical expenses, loss of earnings, or property damage from the liability is reasonably clear".

REP. TOOLE said there were several concerns expressed by Ms. Terrell and Gene Phillips. One of those was that the Bill as originally drafted, provided that this had to be put in the insurance policy which was unwieldy. There other complaint was that this was already the law. These amendments eliminate the requirements that these provisions be placed in an insurance company but instead simply place Provision 15 in 33-18-201. That provision says what everybody agrees is what the law already states. 33-18-201 is a provision that applies only to the relationship between the insurer and the insurance carrier. In order to make this applicable with third party claimants they go to 33-18-242 and add in "15" to 33-18-242. Only the intent of the initial Bill places it in Clause 15 of 201. That makes it applicable not only to the insured but to the third party claimant. It eliminates the concern about placing this language in the policy and instead places it in the law.

REP. WHALEN said he partially agrees with the amendments. He referred to a case he had. In the case, admitted liability, a request was made that they pay for medically prescribed treatment, but they would not pay for that treatment. It was required that payment be made before the treatment was given. He

wondered about the term "fail to promptly pay incurred medical expenses".

Mr. Sherwood said when he proposed the initial language the word "incurred" was not in there. Ms. Terrell was concerned that this might be construed as a requirement to pay future medicals for an indefinite period of time.

MOTION: REP. WHALEN moved the amendments with the exception of the word "incurred" on page 2. It discusses medical expenses. They are not expenses if they haven't been either filled or will be required to be paid before the medical treatment can be given.

Discussion:

REP. R. JOHNSON asked if taking out the word "incurred" would expand the number of medical expenses, of benefits. How can they be confined to this particular situation.

REP. WHALEN said there is a problem with the word "incurred".

REP. BOHARSKI asked what does Subsection 6 already do.

REP. WHALEN said the insurance companies are taking the position that this Bill is not needed.

REP. TOOLE said Subsection 6 is probably the most important provision in the whole Statute. It prohibits the insurance company from neglecting to attend to the good faith in the settlements. When the medical condition is stabilizing then negotiations must be made in good faith and try to put something together. It does not address the obligation to advance pay and medical bills when they are being incurred. Sometimes the insurance company will pay those bills.

REP. BOHARSKI said he sees considerable difference in the language between "neglect to attempt in good faith to effectuate the property or negligence and settlements and pay". They should be able to sit down and work it out.

REP. WHALEN said it should work that way but it doesn't. The reason is that they take the position that what the words mean is to settle the whole case not just the expenses. It takes a year and a half. Some people can't last that long. The expenses for the bill collectors and the medical treatments that must be paid up-front are not currently covered.

REP. R. JOHNSON said Section 1 and Section 2, number 2, did not come together. **REP. MEASURE** said that was not being amended. **VICE CHAIR BROOKE** said they are only amended in number 15 above in that Section. **REP. R. JOHNSON** said his question really was, does that concur with what it says in Section 1, immediately following 33-18-201. **REP. MEASURE** said that was complimentary.

VOTE: Motion carried.

MOTION/VOTE: REP. WHALEN moved HB 735 DO PASS AS AMENDED. Motion carried with **REPS. GOULD, CLARK, JOHNSON, BOHARSKI** voting no.

EXECUTIVE ACTION ON HB 767

MOTION: REP. MEASURE moved HB 767 DO PASS.

MOTION: REP. MEASURE moved the amendments for HB 767

John MacMaster said on page 2, line 19, the word non-refundable will be taken out. **EXHIBIT 12**

Discussion:

REP. MEASURE said the amendments were concerns of Rep. Cocchiarella. They felt the amendments would resolve any problems.

VOTE: Motion on the amendments carried unanimously.

MOTION: REP. MEASURE moved the Bill as amended.

REP. R. JOHNSON moved an amendment to strike Section 6.

Discussion:

VICE CHAIR BROOKE asked if the amendments could include that all references to Section 6 in the Bill would be deleted. **REP. R. JOHNSON** said yes.

REP. MEASURE said the tenants would consider that a friendly amendment. That is the language that is in the present law to require a tenant to maintain the dwelling. **REP. R. JOHNSON** said he thought it was the interest on the security clause. **VICE CHAIR BROOKE** told Rep. Measure they were on HB 767. **REP. MEASURE** said the interest on the security deposit affects the individual with a large number of properties to manage. He is opposed to it, but if it is the only way to pass the bill, he'll agree. **REP. R. JOHNSON** said the people he was concerned with are the people who don't have many units. They testified vehemently that the Bill would be a chore. He would like to eliminate the Bill. **Vice Chair Brooke** said she wondered if there is way to put in a minimum limit of that security deposit and after that limit has been exceeded then the interest would be returned.

REP. BOHARSKI said it won't affect the tenants.

REP. MEASURE said it was a trust situation. Landlords are using it for many reasons. This Bill states the money does not belong to the landlord. It is a trust obligation to the funds. They should pay some interest on it because they are drawing some

interest on it. They don't have a right to spend it. They are to hold it in trust.

REP. KELLER asked to clarify the voting. **VICE CHAIR BROOKE** said it was Rep. Johnson's amendment to delete Section 6 and all references to Section 6 in the Bill.

VOTE: Motion on R. Johnson's amendment failed 8-11. **EXHIBIT 13**

MOTION: REP. MEASURE moved HB 767 DO PASS AS AMENDED.

REP. CLARK said the testimony of one of the proponents indicated that the cost will not be paid by the landlord. The rent would go up.

REP. MESSMORE asked about the floor. **REP. MEASURE** said there had been a good consensus of landlords and people in the state. He thinks it is good legislation. **REP. MESSMORE** said she had received 35 comments from Great Falls indicating that was not the case. She didn't know if that was the case in all places.

REP. WHALEN said it would never come together in all places. Montana low income coalition worked on it for years. Great Falls landlords didn't make it to the meetings in the last two years and that was their fault. **REP. MESSMORE** said they did make it to the meetings. There was no ultimate resolution.

VOTE: Motion on HB 767 DO PASS AS AMENDED 11-9. **EXHIBIT 14**

EXECUTIVE ACTION ON HB 768

MOTION: REP. MEASURE moved HB 768 and the amendments. The amendments on page 15, line 11 strike "the necessity of". **EXHIBIT 15**

VOTE: Motion on the amendment carried unanimously.

MOTION: REP. MEASURE moved the Bill as amended.

Discussion:

MOTION: REP. WYATT moved a Substitute Motion to have an amendment which is to delete the Sections 10S. Page 13, line 19 strike all fellows down to page 16, line 5 the computation. All of Section 10 would be deleted. **Mr. MacMaster** said under this motion there won't be any amendments.

REP. BECKER said she would oppose the amendment. This is the main thrust.

REP. MESSMORE said she spoke in favor of Rep. Wyatt's motion in that there was ample testimony on the part of landlords that this section will tighten the amendments.

REP. TOOLE said he opposed the amendment. He was concerned that it be complete. If there was a basis for termination it will be able to be found.

REP. DARKO asked if a tenant is asked to vacate the premises, but they don't want to do so, what is the recourse. **REP. MEASURE** said the tenants can be terminated but have to be terminated at the end of the term unless there is cause.

REP. BOHARSKI said he agrees with Rep. Wyatt. Rep. Measure's concern is that perhaps that the law is clear.

MOTION/VOTE: REP. BOHARSKI moved a Substitute Motion that Section 10, page 13, line 9 following the word "terminate", insert "without cause". Motion on the Boharski amendments failed on a tie.

VOTE: Motion on Rep. Wyatt's amendment failed on a tie. **EXHIBIT 17**

VOTE: Motion DO PASS AS AMENDED carried 11-9. **EXHIBIT 18**

EXECUTIVE ACTION ON HB 653

MOTION: REP. WHALEN moved HB 653 DO PASS. He said the problem needs to be fixed one step at a time. There is a Constitutional provision that limits the manner in which immunity can be imposed.

Discussion:

REP. NELSON asked how the Bill meshed with Sen. Nathe's SB 154. **REP. WHALEN** said he understood the only difference was that his had a retroactivity provision to take care of Mrs. Linder's problem. The Senate has made some amendments on that Bill that he hadn't seen. Some of the amendments may have to do with stepping forward to try to establish immunity. He thinks it is ill advised to do that. To repeal immunity a 2/3 vote is not required but to establish it a 2/3 vote is needed. Because of the Supreme Court's decision they need to repeal the patchwork quilt of law where nobody can determine immunity. Sen. Nathe's Bill tried to accomplish that in the initial Bill which erases the board. **REP. WHALEN** said his Bill covers an area of the law which Sen. Nathe's does not. Sen. Nathe's only addresses Legislative immunity which primarily applies to local governments. Rep. Whalen's addresses state immunity. If the Senate has added immunity provisions, they have, in effect, created a situation where they can begin fresh. If the Bill doesn't pass by a 2/3 vote in the Senate and the House the Legislature will have further messed up immunity. If immunity is to be established, it needs to be done through separate vehicles.

REP. R. JOHNSON asked if HB 691 would be considered with this Bill. He asked if that had been done. That was the Bill on immunity by Rep. Toole. **REP. WHALEN** said he did remember the Bill. He said Rep. Toole's Bill would only address a fraction of the issue. **REP. R. JOHNSON** asked if they had amended the Bill. **REP. WHALEN** said he would request that Section 8 be deleted and therefore move the amendment. The drafter of the Bill erroneously determined that this would need a 2/3 vote and a 2/3 vote is only needed to impose immunity. **REP. R. JOHNSON** asked **Mr. MacMaster** to address that. **Mr. MacMaster** said it doesn't grant immunity. It takes away existing immunity. **REP. WHALEN** said for various reasons it should be recorded by the secretary, the complete wording of all the whereas clauses.

MOTION/VOTE: REP. R. JOHNSON moved to adopt the amendment. Motion carried unanimously.

MOTION: REP. R. JOHNSON moved the Bill as amended.

Discussion:

REP. J. RICE said the immunity situation in Montana needs to be changed. There needs to be a remedy to people for others' carelessness. It is not fair to insulate governments for their acts of negligence when citizens may be harmed.

VOTE: Motion carried unanimously.

EXECUTIVE ACTION ON HB 772

MOTION/VOTE: CHAIRMAN STRIZICH said there were requests to place the last Bill on the Consent Calendar. Motion carried unanimously. He said he could put it on the Alternative Consent Calendar. That would require the opposition go to the sponsor and put it in writing. He thinks people would object to the regular Consent Calendar. He said it would go to Second Reading. It just won't involve debate. It just appears as a vote.

REP. BOHARSKI said there are two Consent Calendars that are in one. The difference is the signatures.

CHAIRMAN STRIZICH said it won't go on any Consent Calendar of any type.

MOTION: REP. WHALEN moved DO PASS. There are amendment to resolve the situation. He had asked Tom Olson to come and explain the Department's position.

Mr. Olsen said HB 772 was to clean-up a situation that wasn't working well. Children who are committed to the care and responsibility of the Department of Family Services are the complete responsibility of the Department. The Department's regional administrators have the authority to make the placement. In making that placement, they take into consideration all the

recommendations of all the professionals that are involved with that child. As a result they put the Bill in to drop the placement of the committees to abolishing a system that did not work well. It did delay placements as opposed to enhancing them. The proposed amendments contain items that they cannot support. It says the court shall specify a person's second choice of placement. For the court to specify first and second choices in placement is inconsistent with what he is trying to develop in Montana. Language further down in the amendment says the Department shall evaluate the financial feasibility of the placement choices. He doesn't think financial feasibility should be the first consideration. The Department will consider first the appropriateness of the placement for the child. Another concern is the final language in the amendment that says the Department shall determine a placement for the youth at a level of care equivalent to the level of care determined appropriate by the court. The child's needs are assessed and a level of care is assigned to that child for placement purposes will be a part of the system to be developed. He is not comfortable with language in the amendment where it says the level of care will not be determined by the court. His final objection is SB 443 which is an act that further clarifies the youth courts to order placement of the youth not on care. The amendment language is at odds with the Senate Bill. He thinks the amendment should be dropped. He would prefer the Bill be dropped entirely. He thinks the old Youth Placement System is better than this Bill as amended.

Ms. Hood said the issue is still dealing with youths who may have been in the juvenile justice system for as long as a year or two on an informal basis, being handled by a juvenile probation office and defense attorney and prosecutors who know the family well enough to determine the appropriate placement. The Department determining that placement allows for no input by the defense attorney, by the youth or by his family. This statute is proposed to be amended doesn't ask for any input from the Youth Court Judge. The Department wants to put the kids in a slot. The children must be treated as individuals. The needs must be addressed by the people who know them.

MOTION/VOTE: REP. BROOKE said she didn't feel comfortable with what happened with the hearing. She said she respects the Department's position and Ms. Hood's position. She said it may be that the policy's time is not yet ready. There are many people she would have liked to talk to in Missoula. She moved the Bill be tabled. Motion failed 8-11. **EXHIBIT 19**

Discussion:

REP. BOHARSKI asked about the Bill. **REP. RICE** said he doesn't all of the problems with the amendments. He thought the Bill gave the responsibility of the court to place youths. The Bill says the same thing. It is submitted to the Department and then if they don't like it, it is their responsibility to put the

youth some other place. He asked if the Committee was basically getting rid of the Bill.

REP. RICE said they are trying to eliminate the Committee that the Department feels is unnecessary. It is important to understand that the Department currently makes placement decisions. They have complete authority to do that. The statute provides for these placement committees that are based on regions. They are sentencing adults to the Department of Institutions to allow the Department to make the decisions that are best for that individual. Family Services is saying the same thing. Instead of the judge trying to pick out a particular treatment for a juvenile. The amendment would make the situation worse that it is now.

REP. BOHARSKI asked if they are moving from the committee to the Department. It sounds like a stream-lining. **CHAIRMAN STRIZICH** said they are not taking any formal hearing away from the formal procedure. The placement committee is comprised of people that are familiar with local resources as well as resources across the state. They are also familiar with the case in some detail. When the cases are reviewed by the placement committee it is reviewed in detail and there is the option for the youth's attorney, family and the youth himself. This bill would remove that panel. Something that is statutorily provided at present would be removed. There is no provision left for the involvement of that family beyond what happens in the courtroom. He said the Department is not ready to take on the total responsibility. The Bill has to fail or have the amendment on it.

REP. WHALEN said the Bill to create the Department of Family Services went through State Administration Committee in 1987. They killed the Bill three times before passing it out. One thing they did at that time was to create these committees because state government officials and officials in Yellowstone left out the SRS workers. They felt left out of the process. **REP. RUSSELL** said in 1987 she called him once and was one of the people on the floor who opposed the creation because she felt they were moving too fast and needed transition time. She thinks DFS said there have been difficult time in transition. There have been a number of different directions.

MOTION/VOTE: REP. BOHARSKI moved to Table the Bill. Motion carried 14-4. **EXHIBIT 20**

EXECUTIVE ACTION ON HB 783

MOTION: REP. STICKNEY moved DO PASS. She asked if this was the same Bill that they worked on last session. **CHAIRMAN STRIZICH** said last session that one failed.

REP. DARKO said she had not had time to read through Larry Herman's letter. He stated his objections to the Bill.

REP. TOOLE asked what was said in the letter. **REP. MEASURE** said he received a letter from Rep. Toole's City Court Judge who was opposed to it. **REP. MEASURE** said he also received a letter from his J.P. He was opposed to it because it doesn't give the individual at that level the ability to a trial. They didn't think a trial was the same as reviewing the record.

MOTION/VOTE: REP. TOOLE moved to amend HB 839. He said this Bill allows for an extension of the court's jurisdiction beyond the short amount of time the lower court has to enforce the sentence. The sentence usually expires after six months. The court has continuing jurisdiction to enforce other conditions, but only for that six months. This Bill adds additional time to allow for rehabilitation. On page 5, line 4, insert after "may", "where otherwise not prohibited by law..." Motion passed unanimously.

MOTION/VOTE: REP. DARKO moved DO PASS AS AMENDED. Motion carried with **REP. GOULD** voting no.

EXECUTIVE ACTION ON HB 931

REP. MESSMORE moved HB 931 DO PASS.

REP. WHALEN said in 1987 the filing fee for someone going to court was $25. That was amended up to $60 and in 1989 it was $70. Divorce was amended from $40 to $100. It costs less to go to federal court than it does to go to state district court. Many fees go to things that are not related to court. He opposes the Bill.

REP. BOHARSKI said he agreed with the statements by Rep. Whalen. He said it isn't that he doesn't recognize the need for the people to have some money. His concern is that they as a Legislature have failed to address their concerns. If people lose their access to the court, limiting their access to schools; instead of addressing what the voters told them to do in I-105, the problems will not be solved. People's rights under the Constitution are being limited by the fees.

CHAIRMAN STRIZICH said he thought they could authorize that the bailiff is part of the court budget rather than the responsibility of the sheriff's office.

REP. STICKNEY asked who actually pays the fees. Does the individual filing the suit or is it the lawyer. **REP. TOOLE** said the lawyers frequently advance the fees. He said they should note two crises that should be noted. One is the statewide crisis over district court funding. The other crisis is which community the county funding is in. Bailiffs are low on the totem pole of district court's needs.

MOTION/VOTE: REP. DARKO moved to table the Bill. Motion carried with **REPS. MESSMORE** and **STICKNEY** voting no.

EXECUTIVE ACTION ON HB 942

MOTION/VOTE: **REP. MEASURE** moved to table HB 942. He said he was concerned about the size of the new sections. He said the document is fifty pages. He said he doesn't understand it. Motion failed 5-15. **EXHIBIT 21** **REP. MEASURE** moved to amend it to eliminate everything other than acknowledging the fact that a short Power of Attorney be established. He didn't think it was necessary to amend other areas of the law. He asked if that would be a problem. **REP. TOOLE** said he understood this was an effort to set out a comprehensive list of the types of powers usually in the document itself. This sets the powers by law and then allows cross reference with a one page document. It is a uniform law. **REP. TOOLE** said he did not have a problem with the Bill.

REP. BOHARSKI thought they should reference that there is a statutory explanation. **CHAIRMAN STRIZICH** said there should be something a lay person can read.

REP. WHALEN said on the back of the form there could be an explanation giving the statute for each of the items on the front. **REP. WYATT** said she has been a military wife for ten years. The military will hardly let the active men give a Power of Attorney away. She would think there should be plenty of protection for them.

REP. MEASURE said the Power of Attorney is important. It is normally specific. He had been in the military and recalled receiving many forms. He thinks they are underwriting a document. He thinks people outside of the military will abuse the Power of Attorney form.

REP. DARKO said she thought most of the testimony was from the military and it detailed the problems they encountered getting the military ready for Desert Storm. This Legislation will affect for all time and for the general population. She thought the military discovered this need. If it is such a good thing, why wasn't it enacted sooner. She would prefer to limit it for purposes of the military. **REP. LEE** said the problem with the ordinary durable Power of Attorney is that once it is signed, the person they have designated can do anything. They have access to every legal decision. He thinks the Bill is fine as it is.

REP. WHALEN asked for clarification if they are limiting it to the military or are they adopting it for everyone. **CHAIRMAN STRIZICH** said he only has a DO PASS on the Bill. **REP. MEASURE** said he moved to amend it to include it as an accepted Power of Attorney, Section 1. **REP. TOOLE** said they have a Substitute Motion. **REP. WHALEN** said that doesn't address the problem with people making up will kits and copying the form. He thought it should be limited to the military. **REP. MEASURE** replied he doesn't know if anyone has done enough research to know if it can be limited to the military.

He thinks everybody is covered by it. **REP. WYATT** said if something is illegal, it shouldn't be considered legal for military people.

CHAIRMAN STRIZICH said he wanted to know if Section 17 in with the immediate effective date. **REP. MEASURE** said absolutely. He replied to Rep. Wyatt. He said he doesn't understand if the current Power of Attorney works for the military why they have to change all Montana laws and interpret each Section. He doesn't think that everyone in Montana should be affected for 5,000 people.

REP. BOHARSKI said Rep. Darko brought up good concern that this Bill is not just for the military. He recalled being in the State of Colorado for several months and unconscious. He had to go through many attorneys. He thinks the Bill as it is works.

REP. TOOLE asked what the Motion was. **CHAIRMAN STRIZICH** said the Motion was to exclude everything from the Bill except Section 1 and Section 17. They would have to do a technical amendment up near the top of the Bill. **REP. TOOLE** said the document specifically said at the top that the matters are defined and specifically enumerated in Section or Code. The amendment wouldn't work.

VOTE: Motion failed unanimously.

CHAIRMAN STRIZICH said it is a challenge for someone to bring a 50 page, 17 Section piece of law to them at this time in the session and expect an intelligent reaction and he is upset about that. He will vote against it.

VOTE: Motion DO PASS with **REPS. MEASURE, BROOKE** and **STRIZICH** voting no.

EXECUTIVE ACTION ON HB 912

REP. TOOLE moved DO PASS on HB 912.

Discussion:

REP. BOHARSKI said he had talked to Rep. Toole about one month before the Bill was introduced. During the last session he carried a bill that was similar. He thinks another concern is that people don't understand the no-fault insurance. Last session all the lawyers and insurance agents testified in favor of it. He spoke with the insurance companies and they don't have any difficulty with adding that. He would add to the Bill a requirement that insurance companies offer or make a person write out the option of having underinsured insurance. He thinks it is a great protection for consumers.

REP. WHALEN asked for clarification of whether it was underinsured or insured. **REP. TOOLE** said there already was a law on uninsured. This is not the same thing.

REP. DARKO said she had concerns with the Bill.

Mr. MacMaster said he understood that every insurance policy has to have a line that would state whether or not sufficient coverage. **REP. BOHARSKI** said people could get into a situation like he did where he ran up $400,000 in medical bills in 2 1/2 months. He said if had been aware of underinsured coverage, but he wasn't, he would signed it.

REP. DARKO asked if they could put it in the Bill. **REP. WHALEN** said he would support the Bill's amendment. It doesn't require that people purchase it, but it does make the agent sell it. **REP. DARKO** said her question was not answered. She asked if it fit in the scope and title of this Bill. If it does, she would support it and strike all of the other language that was added. She would prefer a substitute Bill. **Mr. MacMaster** said the purpose of the Bill does not have to be narrow. Legislatures may add to the bills things that are not specifically noted. The law looks at the body of the bill. He thought is would be within the purpose of the Bill.

MOTION: REP. DARKO moved a Substitute Amendment to insert Rep. Boharski's amendment and strike all numbers which double the minimum coverage. The only people to benefit from this are insurance companies.

VICE-CHAIR BROOKE stated they were on Rep. Darko's amendment. **REP. TOOLE** said coverage for uninsured and underinsured motorists cannot be mandated. The nonmandatory uninsured motorist coverage is rejected by many people. This Bill asks to improve upon the necessity of having insurance. The minimums are insufficient, they haven't changed for twelve years.

REP. WHALEN said he agreed with Rep. Darko. It probably will be years before the insurance industry is regulated. Currently insurance coverage is not adequate. **REP. DARKO** said this mandates an $80 increase every year. She said some people will drop their insurance.

MOTION/VOTE: REP. NELSON made a Substitute Motion to table the Bill. Motion failed.

VOTE: Motion carried 11-6. **EXHIBIT 22**

VOTE: Motion with the Darko amendment carried with **REPS. MEASURE** and **RUSSELL** voting no. **EXHIBIT 23**

ADJOURNMENT

Adjournment: 2:45 P.M.

Bill Strizich, Chair

Jeanne Domme by Joyce Andrus
Jeanne Domme, Secretary

BS/JD

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL EXEC ACTION / Hearings **DATE** 2-21-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR			
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN			/
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

3.3
2-21-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 675 (first reading copy -- white) do pass .

Signed: _____
Bill Strizich, Chairman

8:45
2-22-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 773 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Title, line 5.
Strike: "OR EXAMINED"

2. Title, line 7.
Strike: "OR A PEACE OFFICER"

3. Page 1, line 13.
Strike: "or is examined"

4. Page 1, lines 14 and 15.
Strike: "at the time of detention or"
Insert: ","

5. Page 1, line 15.
Strike: "examination"
Insert: "his appearance,"

6. Page 1, line 17.
Strike: "or a peace officer"

7. Page 1, line 18.
Strike: "or examination"

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 821 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Title, line 4.
Following: "AN ACT TO"
Insert: "PARTIALLY"

2. Page 4, line 16.
Strike: "."
Insert: ";"

3. Page 4.
Following: line 16
Insert: "(15) for an operating or proposed mine, mill, or smelter, land needed for compliance with state and federal laws or regulations promulgated for the protection of the environment if the land on which the mine, mill, or smelter is situated has no suitable location that can be used for such compliance."

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 942 (first reading copy -- white) do pass .

Signed: _____
Bill Strizich, Chairman

2-22-91
HB

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 912 (first reading copy -- white) do pass as amended.

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Title, lines 4 through 10.
Strike: "INCREASING" on line 4 through "61-6-138" on line 10
Insert: "REQUIRING MOTOR VEHICLE LIABILITY INSURANCE POLICIES TO INSURE AGAINST UNDERINSURED DRIVERS; ALLOWING AN INSURED TO REJECT SUCH INSURANCE; AND AMENDING SECTION 33-23-201"

2. Page 1, line 14, through page 7, line 24.
Strike: sections 1 through 3 in their entirety
Insert: "Section 1. Section 33-23-201, MCA, is amended to read:

"33-23-201. Motor vehicle liability policies to include uninsured and underinsured motorist coverage -- rejection by insured. (1) No motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle may be delivered or issued for delivery in this state, with respect to any motor vehicle registered and principally garaged in this state, unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in 61-6-103, under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured and underinsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom, caused by an accident arising out of the operation or use of such vehicle. An uninsured or underinsured motor vehicle is a land motor vehicle, the ownership, the maintenance, or the use of which is not insured or bonded or is underinsured and insufficiently bonded for bodily injury liability at the time of the accident.

(2) The named insured shall have the right to reject ~~such~~ either uninsured or underinsured coverage, or both. Unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with the policy previously issued to him by the same insurer.""
Renumber: subsequent section

8:45
2-22-91
SDT

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 839 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:
1. Page 5, line 4.
Following: "may"
Insert: ", if not otherwise prohibited by law,"
Following: "defer"
Insert: "imposition of"

2. Page 5, line 5.
Strike: "imposition of"

Jeanne Donne 5:20 2-22-91 TB

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 735 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Title, lines 4 and 5.
Strike: "INSURANCE POLICY THAT PROVIDES COVERAGE"
Insert: "INSURER TO REIMBURSE AN INSURED OR THIRD-PARTY CLAIMANT"

2. Title, lines 6 and 7.
Strike: "TO CONTAIN A PROVISION REQUIRING PAYMENT OF CLAIMS"

3. Title, line 8
Following: "CLEAR;"
Insert: "AMENDING SECTIONS 33-18-201 AND 33-18-242, MCA;"
Strike: "APPLICABILITY"
Insert: "IMMEDIATE EFFECTIVE"

4. Page 1, line 11, through page 2, line 1.
Strike: sections 1 through 3 in their entirety
Insert: "Section 1. Section 33-18-201, MCA, is amended to read:

"33-18-201. Unfair claim settlement practices prohibited. No person may, with such frequency as to indicate a general business practice, do any of the following:

(1) misrepresent pertinent facts or insurance policy provisions relating to coverages at issue;

(2) fail to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) fail to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) refuse to pay claims without conducting a reasonable investigation based upon all available information;

(5) fail to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) neglect to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

(7) compel insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) attempt to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) attempt to settle claims on the basis of an application which was altered without notice to or knowledge or consent of the insured;

(10) make claims payments to insureds or beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made;

(11) make known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) delay the investigation or payment of claims by requiring an insured, claimant, or physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) fail to promptly settle claims, if liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; ~~or~~

(14) fail to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; or

(15) fail to promptly pay medical expenses, loss of earnings, or property damage when liability is reasonably clear."

Section 2. Section 33-18-242, MCA, is amended to read:

"33-18-242. Independent cause of action -- burden of proof. (1) An insured or a third-party claimant has an independent cause of action against an insurer for actual damages caused by the insurer's violation of subsection (1), (4), (5), (6), (9), ~~or~~ (13), or (15) of 33-18-201.

(2) In an action under this section, a plaintiff is not required to prove that the violations were of such frequency as to indicate a general business practice.

(3) An insured who has suffered damages as a result of the handling of an insurance claim may bring an action against the insurer for breach of the insurance contract, for fraud, or pursuant to this section, but not under any other theory or cause of action. An insured may not bring an action for bad faith in

connection with the handling of an insurance claim.

(4) In an action under this section, the court or jury may award such damages as were proximately caused by the violation of subsection (1), (4), (5), (6), (9), ~~or~~ (13), or (15) of 33-18-201. Exemplary damages may also be assessed in accordance with 27-1-221.

(5) An insurer may not be held liable under this section if the insurer had a reasonable basis in law or in fact for contesting the claim or the amount of the claim, whichever is in issue.

(6) (a) An insured may file an action under this section, together with any other cause of action the insured has against the insurer. Actions may be bifurcated for trial where justice so requires.

(b) A third-party claimant may not file an action under this section until after the underlying claim has been settled or a judgment entered in favor of the claimant on the underlying claim.

(7) The period prescribed for commencement of an action under this section is:

(a) for an insured, within 2 years from the date of the violation of 33-18-201; and

(b) for a third-party claimant, within 1 year from the date of the settlement of or the entry of judgment on the underlying claim.

(8) As used in this section, an insurer includes a person, firm, or corporation utilizing self-insurance to pay claims made against them."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

4:50
2-21-91
TDJ

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 767 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Page 2, line 19.
Strike: "nonrefundable"

2. Page 3, line 19.
Following: "cleaning."
Insert: "If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing."

3. Page 5, line 14.
Strike: "7-day"
Insert: "10-day"

4. Page 5, line 22.
Page 6, line 20.
Strike: "prospective"

5. Page 6, lines 1, 4, and 24.
Strike: "prospective"

4:50
2-21-91
TDB

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 768 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:
1. Page 15, line 11.
Strike: "the necessity of"

8:45
2-22-91
TDB

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 653 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:
1. Page 7, lines 16 through 20.
Strike: section 8 in its entirety
Renumber: subsequent sections

EXHIBIT 1
DATE 2-21-91
HB 789

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB# 789 **NUMBER** _____

MOTION: Measure moved Do Pass

Failed

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	/	
REP. WILLIAM BOHARSKI		/
REP. DAVE BROWN	/	
REP. ROBERT CLARK		/
REP. PAULA DARKO		/
REP. BUDD GOULD	/	
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE	/	
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON	/	
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY		/
REP. HOWARD TOOLE		/
REP. TIM WHALEN		/
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	9	11

EXHIBIT 2
DATE 2.21.91
HB 36

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2/21 **BILL NO.** _____ **NUMBER** _____

MOTION: Reconsider HB 36 (Measure)

Failed

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR		—
REP. ARLENE BECKER	—	
REP. WILLIAM BOHARSKI		—
REP. DAVE BROWN	—	
REP. ROBERT CLARK		—
REP. PAULA DARKO		—
REP. BUDD GOULD		—
REP. ROYAL JOHNSON		—
REP. VERNON KELLER		—
REP. THOMAS LEE		—
REP. BRUCE MEASURE	—	
REP. CHARLOTTE MESSMORE		—
REP. LINDA NELSON		—
REP. JIM RICE		—
REP. ANGELA RUSSELL	—	
REP. JESSICA STICKNEY	—	
REP. HOWARD TOOLE	—	
REP. TIM WHALEN	—	
REP. DIANA WYATT	—	
REP. BILL STRIZICH, CHAIRMAN	—	
TOTAL	9	11

EXHIBIT 3
DATE 2-21-91
HB 821

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB #821 **NUMBER** _____

MOTION: Toole: DPA

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	/	
REP. WILLIAM BOHARSKI		/
REP. DAVE BROWN		/
REP. ROBERT CLARK		/
REP. PAULA DARKO		/
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE	/	
REP. BRUCE MEASURE	/	
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON	/	
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	11	9

UNIFORM LAWS ANNOTATED

Volume 8A

Estate, Probate and Related Laws

1990
Cumulative Annual Pocket Part

Replacing 1989 pocket part in back of volume

DIRECTORY OF UNIFORM ACTS AND CODES
with
TABLES AND INDEX

See special pamphlet
which accompanies these Pocket Parts

ST. PAUL, MINN.
WEST PUBLISHING CO.

UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT

Historical Note

The Uniform Statutory Form Power of Attorney Act was approved by the National Conference of Commissioners on Uniform State Laws in 1988. The complete text of the act, the prefatory note and comments are set forth in this supplement.

PREFATORY NOTE

The Uniform Statutory Power of Attorney Act, when adopted by a state, will give legislative sanction to a statutory form that can be used in whole or part instead of individually drafted forms or forms adapted from a form book. Use of the statutory form will be supported by the expressed authority of the state and have the statutory construction provided by Sections 3 through 17. It is hoped that the form will become familiar and be readily accepted by persons who see it. Acts of this kind have been adopted by several states, including California, Illinois, Minnesota, and New York. This proposed Act is based in part on those examples.

Section 1 is the form itself. It is a list of powers. The items relate to various separate classes of activities, except the last, which is inclusive. Health care matters are not included. Since they involve intensely controversial personal as well as economic considerations, they are left to other legislation. Space is provided for special provisions. After the introductory phrase, the term "agent" is used throughout the act in place of the longer and less familiar, "attorney-in-fact." Special effort is made throughout the Act to make the language as informal as possible without impairing its effectiveness.

Section 2 and the form itself permit the power of attorney to remain in effect after the disability of the principal if that is permitted by other law of the state. It does not by itself authorize the creation of a durable power. It is included because of the growing interest in durable powers and the fact that they are recommended by other acts proposed by the National Conference of Commissioners on Uniform State Laws.

Section 3 is the legislative construction of the authority that may be incidentally necessary for the exercise of a power vested in the form.

Sections 4 through 16 are the legislative construction of the list of brief topics in the form. Each section identifies actions that are permitted as appropriate to the particular grant of power. The statements, without being exhaustive, attempt to be amply illustrative.

The Act as a whole provides a practical method of granting powers of whatever scope may be appropriate for people in a wide variety of circumstances.

UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT

§ 1. Statutory Form of Power of Attorney.

(a) Form. The following statutory form of power of attorney is legally sufficient:

STATUTORY POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I _____ (insert your name and address) appoint _____ (insert the name and address of the person appointed) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

_____ (A) Real property transactions.
_____ (B) Tangible personal property transactions.
_____ (C) Stock and bond transactions.
_____ (D) Commodity and option transactions.
_____ (E) Banking and other financial institution transactions.
_____ (F) Business operating transactions.
_____ (G) Insurance and annuity transactions.
_____ (H) Estate, trust, and other beneficiary transactions.
_____ (I) Claims and litigation.
_____ (J) Personal and family maintenance.
_____ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or military service.
_____ (L) Retirement plan transactions.
_____ (M) Tax matters.
_____ (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become disabled, incapacitated, or incompetent.

Library References

American Digest System

Appointment of agent by power of attorney, see Principal and Agent ⇐10(1, 2).
Authority of agent under power of attorney, see Principal and Agent ⇐97.

Encyclopedias

Appointment of agent by power of attorney, see C.J.S. Agency §§ 44 to 47.
Authority of agent under power of attorney, see C.J.S. Agency § 150.

§ 2. Durable Power of Attorney.

A power of attorney legally sufficient under this [Act] is durable to the extent that durable powers are permitted by other law of this State and the power of attorney contains language, such as "This power of attorney will continue to be effective if I become disabled, incapacitated, or incompetent," showing the intent of the principal that the power granted may be exercised notwithstanding later disability, incapacity, or incompetency.

COMMENT

Section 2 makes it explicit that, subject to the law of the enacting state, a power of attorney may continue when the principal is disabled, incapacitated, or becomes incompetent. The form in Section 1 includes a provision for continuance under those circumstances. That provision may be used or stricken at the discretion of the principal.

Library References

American Digest System

Termination of relation of principal and agent, see Principal and Agent ⇐29½ to 46.

Encyclopedias

Termination of relation of principal and agent, see C.J.S. Agency §§ 105 to 142.

§ 3. Construction of Powers Generally.

By executing a statutory power of attorney with respect to a subject listed in Section 1(a), the principal, except as limited or extended by the principal in the power of attorney, empowers the agent, for that subject to:

(1) demand, receive, and obtain by litigation or otherwise, money or other thing of value to which the principal is, may become, or claims to be entitled; and conserve, invest, disburse, or use anything so received for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction, and perform, rescind, reform, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, and deliver a deed, revocation, mortgage, lease, notice, check, release, or other instrument the agent considers desirable to accomplish a purpose of a transaction;

(4) prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court to carry out an act authorized by the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, expert witness, or other assistant;

(7) keep appropriate records of each transaction, including an accounting of receipts and disbursements;

(8) prepare, execute, and file a record, report, or other document the agent considers desirable to safeguard or promote the principal's interest under a statute or governmental regulation;

EXHIBIT 5
DATE 2-21-91
HB 942

GENERAL POWER OF ATTORNEY

I, Gary L. Beck, of Deer Lodge, Montana, do hereby constitute and appoint Beverly Beck; to be my true and lawful attorney, to do for me in my stead and on my behalf any and all things as may be done with my properties, real and personal, as I might myself do, and to pay any expenses or debts of mine out of any accounts I may have in either savings or checking accounts wheresoever situated, and to execute for me and on my behalf any and all instruments of title conveyance or security devices and to execute for me any and all tax returns, and to collect for me any and all income tax due me and to deposit the same in my bank accounts on his (her) signature.

This General Power of Attorney shall continue until revoked by me in writing. This Power of Attorney shall not be affected by the disability of the principal.

This General Power of Attorney shall become valid and effective only at and from the date that a commissioned officer in the United States Armed Forces certifies, that I have deployed, as a member of the Montana National Guard, in the Armed Service of the United States. I hereby request and authorize that as soon as possible after my deployment the said deployment clause be completed and signed by a commissioned officer.

Gary L. Beck
Principal

STATE OF MONTANA)
:SS.
County of DEER LODGE)

On this 13th day of January, 1991, before me, the undersigned, a Notary Public for the State of Montana, personally appeared GARY L. BECK, known to me to be the person whose name is subscribed to the within Power of Attorney, and acknowledged to me that he (she) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

DAVID S. NISS NOTARIAL SEAL STATE OF MONTANA (NOTARIAL SEAL)

Notary Public for the State of Montana
Residing at _____, Montana
My commission expires

NOTARY PUBLIC for the State of Montana
Residing at Helena, Montana
My Commission Expires August 15, 1993

DEPLOYMENT CERTIFICATION CLAUSE

I, _____, do hereby certify that I am a commissioned officer in the Armed Forces of the United States. I certify that the above named, _____, is a member of the United States Armed Forces and has deployed in the Armed Forces of the United States as a member of the Montana National Guard.

Signature of Officer:_____Rank:_____ Date:_____

DMA-OTAG-MT FORM 192
19 Jun 90

Form No. 2063-63M—GENERAL POWER OF ATTORNEY
Statutory Short Form 1988

EXHIBIT 6
DATE 2-21-91
HB 942

Walter S. Booth Co.

POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING, THEY ARE DEFINED IN (M.S. 523-24). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT ADVICE. THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES IS ALSO PERMITTED. THIS POWER OF ATTORNEY MAY BE REVOKED BY YOU IF YOU LATER WISH TO DO SO. THIS POWER OF ATTORNEY AUTHORIZES THE ATTORNEY-IN-FACT TO ACT FOR YOU BUT DOES NOT REQUIRE THE ATTORNEY IN-FACT TO ACT FOR YOU.

KNOW ALL BY THESE PRESENTS, which are intended to constitute a STATUTORY SHORT FORM POWER OF ATTORNEY pursuant to chapter **603**, section **25**, of Minnesota Law: M.S., Section 523.23.

That I _____
Name Address City

Do hereby appoint _____
Name Address City State Zip

my attorney(s)-in-fact appoint to act (jointly);

NOTE: If more than one attorney-in-fact is designated and the principal wishes each attorney-in-fact alone to be able to exercise the power conferred, delete the word "Jointly". Failure to delete the word "Jointly" will require the attorneys-in-fact to act unanimously.

First: [In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in M.S., section 523.24]

TO GRANT THE ATTORNEY-IN-FACT ANY OF THE FOLLOWING POWERS, MAKE A CHECK OR (X) IN THE LINE IN FRONT OF EACH POWER BEING GRANTED. TO DELETE ANY OF THE FOLLOWING POWERS, DO NOT MAKE A CHECK OR (X) IN THE LINE IN FRONT OF THE POWER. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER BEING DELETED WITH A LINE DRAWN THROUGH IT (OR IN SIMILAR FASHION). FAILURE TO MAKE A CHECK OR (X) IN THE LINE IN FRONT OF THE POWER WILL HAVE THE EFFECT OF DELETING THE POWER UNLESS THE LINE IN FRONT OF THE POWER OF (0) IS CHECKED OR X-ED.

CHECK OR (X)

_____ (A) real property transactions;

_____ (B) tangible personal property transactions;

_____ (C) bond, share, and commodity transactions;

_____ (D) banking transactions;

_____ (E) business operating transactions;

_____ (F) insurance transactions;

_____ (G) beneficiary transactions;

_____ (H) gift transactions;

_____ (I) fiduciary transactions;

_____ (J) claims and litigation;

_____ (K) family maintenance;

_____ (L) benefits from military service;

_____ (M) records, reports, statements;

_____ (N) all other matters;

_____ (O) all of the powers listed in (A) through (N) above.

SECOND: (YOU MUST INDICATE BELOW WHETHER OR NOT THIS POWER OF ATTORNEY WILL BE EFFECTIVE IF YOU BECOME INCOMPETENT. MAKE A CHECK OR (X) IN THE LINE IN FRONT OF THE STATEMENT THAT EXPRESSES YOUR INTENT.

_____This power of attorney shall continue to be effective if I become incompetent. It shall not be affected by my later disability or incompetency.

_____This power of attorney shall not be effective if I become incompetent.

THIRD: (YOU MUST INDICATE BELOW WHETHER OR NOT THIS POWER OF ATTORNEY AUTHORIZES THE ATTORNEY-IN-FACT TO TRANSFER YOUR PROPERTY DIRECTLY TO ATTORNEY-IN-FACT. MAKE A CHECK OR (X) IN FRONT OF THE STATEMENT THAT EXPRESSES YOUR INTENT.)

_____This power of attorney authorizes the attorney-in-fact to receive the transfer directly.

_____This power of attorney does not authorize the attorney-in-fact to receive the transfer directly.

In witness whereof I have hereunto signed my name this_____

day of_____, 19____.

_____
Signature of Principal

_____

_____
Signature of Attorney(s)-In-Fact

The foregoing instrument was acknowledged before me this_____day of_____, 19_____, by_____

_____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

State of Minnesota

County of_____ } ss.

THIS INSTRUMENT WAS DRAFTED BY:

_____
(Name)

_____
(Address)

_____

EXHIBIT 1
DATE 2-21-91
HB 584

Testimony James J. Murphy
Executive Vice President
State Compensation Mutual Insurance Fund
HB 584

The State Compensation Mutual Insurance Fund opposes HB 584.

This bill has a number of problems, however, its primary effect is that of preventing an insurance company or an employer in a workers' compensation matter from ever being able to hire an attorney for a legal defense in a litigated case. The bill states a defense attorney may not be paid in a case in which the attorney does not prevail or may not receive more than the claimant's attorney is awarded. The irony here is the defense attorney can never get paid. If the defense attorney loses the case he does not get paid because he didn't prevail. If the defense attorney wins, he does not get paid because the fee is limited in this bill to what the claimant's attorney gets, which is nothing.

Under the bill we could not pay the outside counsel or the Attorney General Office and, more ironically, we could not pay our own employees who are also defense attorneys.

There are also potential constitutional problems with this bill regarding the impairment of contracts, having the courts of justice open to employers represented by insurers, and due process. This bill effectively closes the courts to employers in that insurers are not eligible to receive pro bono legal services. In addition, employers without benefit of counsel would be prohibited from appearing in the Workers' Compensation Court because they are not authorized to practice law.

What is being overlooked here is the fact that claimants' attorneys handle many cases which never go to court, and receive contingency fees upon settlement of these cases. A defense attorney is typically only called in for defense of a litigated matter but this bill then states the attorney cannot be paid, so in essence there would be no payment for an attorney doing workers' compensation defense work.

This bill is apparently an attempted back lash at workers' compensation defense attorneys in that regulation of attorney's fees between an injured worker and their attorney has been in the statute for many years. This is under the assumption that some limits are warranted on the amount of benefits an injured worker pays his or her attorney. However, an insurer is in a position to look out for their own interests and therefore the regulation of defense attorneys in this bill is unneeded, unwarranted and totally inappropriate.

We urge this committee to vote do not pass on this bill.

James J. Murphy
signed

EXHIBIT 8
DATE 2-21-91
HB 772

DEPARTMENT OF FAMILY SERVICES

STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

TESTIMONY IN SUPPORT OF HB 772

An act to abolish youth placement committees established under the Montana Youth Court Act; amending sections 41-5-523 and 52-1-103, MCA, repealing sections 41-5-525 through 41-5-529, MCA; and providing an effective date.

Submitted by John Melcher, Jr.
Staff Attorney for the Department of Family Services

Under current law, a youth placement committee must be established in each judicial district. The Department of Family Services appoints the members of the committees. The law requires appointment of a DFS representative, a county welfare representative, a youth probation officer, a representative of the school district, and a mental health professional. Youth placement committees function solely to recommend placement of youths declared delinquent or in need of supervision under the Youth Court Act. The ultimate decision on placement rests with DFS.

DFS delegates authority to regional administrators to either reject or approve placement according to the committee's recommendation. Regional administrators routinely consider not only the recommendation of the committee members, but also the recommendations of youth court judges, youth probations officers supervising the particular youth, county attorneys, school officials, and DFS personnel with expertise and knowledge of available placements. Regional administrators pay for the placement from the region's budgeted allowance for out of home care. (The attached map locates the five regions of DFS). Most regional administrator follow recommendations of the committees. But the increase in out of home placements has exhausted regional budgets and made routine compliance impossible. Once funds become unavailable, a regional administrator generally must disapprove the recommendation and either place the youth on a waiting list for placement, or find a cheaper placement than the recommended placement. If the recommendation must be disapproved due to financial considerations, regional administrators agree that the committee process is a waste of time.

And the process does take time. It may take as long as a month to make a recommendation following the commitment order. Absent an emergency convening of the committee over the telephone, regional administrators have no authority to place. As a result, temporary placements by probation officers may continue for a month before the youth must be moved to a more permanent placement. Or, many youths simply remain in their home

EX. 5
2-21-91
HB 772

until a placement decision is made. This is true even though the youth court may have determined that they should be removed from the community. A consensus exists that this sort of piece-meal placement procedure is not in the youth's best interests.

In the absence of these committees, there is no doubt that DFS will continue to receive plenty of community input. DFS already has in place local youth advisory committees, local youth foster care committees, and local child protection teams in most areas. In fact, many community members find themselves nominated to serve on more than one DFS committee.

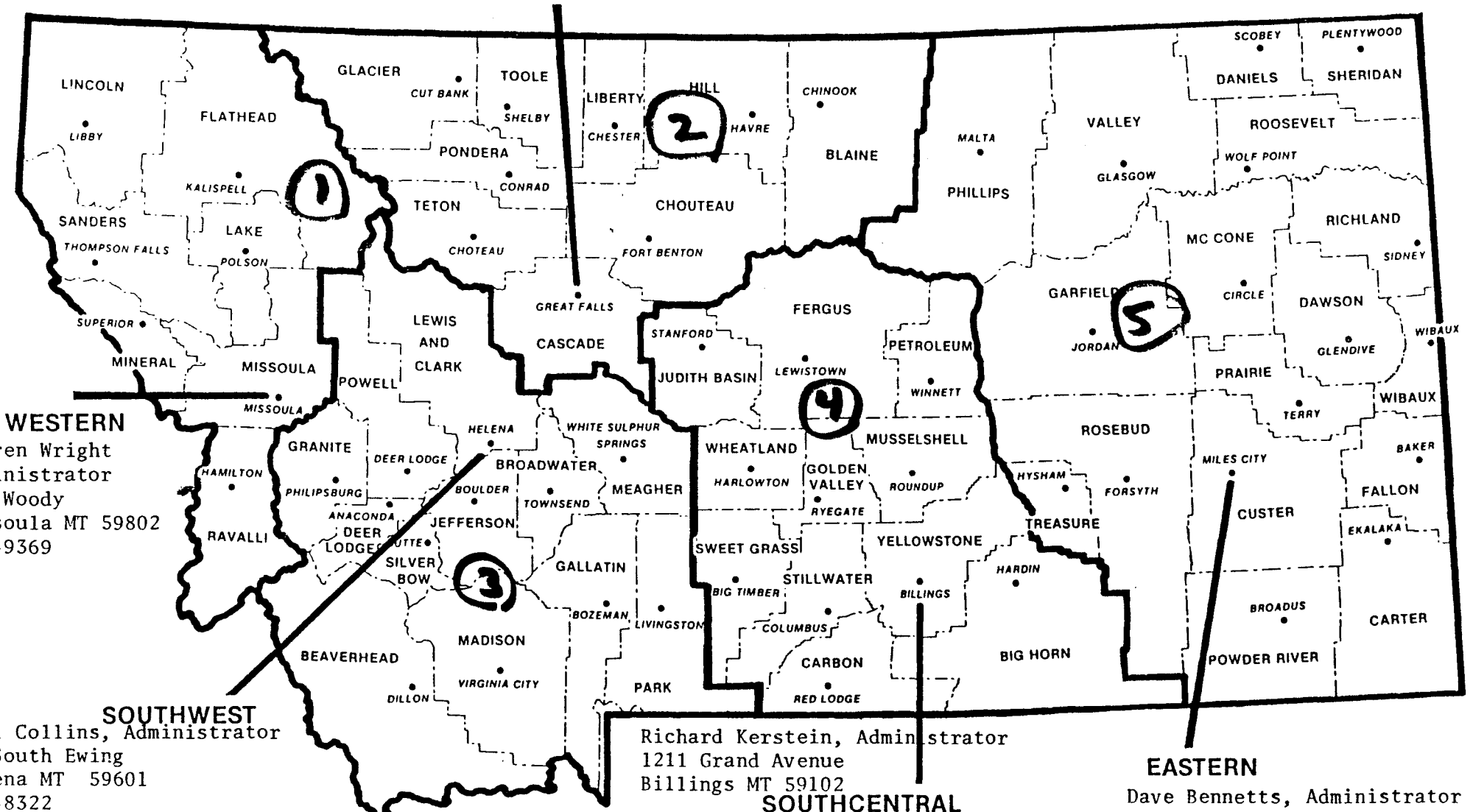
The current law also superimposes the recommendation of the youth placement committees over a placement decision already crowded with recommendations. A mental health expert sitting on the committee may be required to review placement of a youth whose psychological state has already been extensively evaluated and documented. A county welfare representative may review a youth's placement despite the fact that the county has no financial interest in the placement. In multi-county judicial districts, for example, the judicial district comprised of the counties of Beaverhead, Madison, and Jefferson, some committee members may have no connection with the youth's community. The current committee structure nevertheless requires these committee members to gather from substantial distances to review and discuss placement of the youth.

In addition to the involvement of the members of the youth placement committees, the youth court, the probation officer supervising the placement, and the county attorney, the youth foster care review committees must review placements at least once every six months. The involvement of so many individuals in the decision imposes on the youth's privacy. Given the problems in the procedure outlined here, committee review of the youth's records may not be justified.

Finally, regional administrators have noted that their decisions on placement would not vary significantly from committee recommendations even in the absence of the committees. For all these reasons, DFS requests abolition of the committees.

Ex. 5
2-21-91
HB 772

MONTANA DEPARTMENT OF FAMILY SERVICES REGIONS



Linda Walker, Administrator
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Great Falls MT 59401
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arren Wright
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10 Woody
issoula MT 59802
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ill Collins, Administrator
5 South Ewing
elena MT 59601
49-8322

Richard Kerstein, Administrator
1211 Grand Avenue
Billings MT 59102
252-5601

Dave Bennetts, Administrator
Box 880 - 708 Palmer
Miles City MT 59301

EXHIBIT 7
DATE 2-21-91
HB 772

Amendments to House Bill 772

Page 5, line 14.
Following: "(b)"
Strike: "COMMIT THE YOUTH TO THE DEPARTMENT"

Page 5, line 16.
Following: "HOME"
Strike: ";"
Insert: ", determine placement and commit the youth to the department for that placement:"

Page 7, line 11
Following: "DEPARTMENT"
Strike: ", THE DEPARTMENT SHALL DETERMINE THE APPROPRIATE PLACEMENT AND REHABILITATION PROGRAM FOR THE YOUTH."
Insert: "for placement, the court shall specify a first and second choice for placement appropriate to the needs of the youth as defined by the court and convey those choices to the department within 24 hours of disposition. The department shall evaluate the financial feasibility of the placement choices and within 5 days of receiving the choices from the court, advise the court of its acceptance of one of the choices or its rejection of both. If the department rejects both placements, the department shall determine a placement for the youth at a level of care equivalent to the level of care determined appropriate by the court."

EXHIBIT 16
DATE 2-21-91
HB 766

Montana Magistrates Association

February 21, 1991

HB 766, an act increasing imprisonment for alcohol-related vehicle offenses.

Testimony before the House JUdiciary Committee by Pat Bradley,MMA

Mr. Chairman and Committee Members:

The MMA supports this legislation for a very important reason and it is not for putting people in jail for longer terms.

We urge your support for the six-month maximum jail time for DUI and driving with excessive blood alcohol concentration so that the courts have a reasonable time period in which to assure that convicted defendants of these offenses will complete all provisions of their sentence.

Mandatory completion of a chemical dependency program takes several weeks for application to the program, a four-week course, and treatment, if necessary.

The fines and accompanying fees in alcohol-related offenses amount to an average of some $500. Many defendants request time-pay agreements to pay their debts off in installments and the courts always must grant these.

For both these reasons, courts need continuing adequate jurisdiction time periods to accommodate the defendant.

Montana policy is that a court has jurisdiction over a defendant for the term of jail time specified in the penalty section. The 60 days in 61-8-714 and the very short 10 days in 61-8-722 are not enough time to follow through on sentencing provisions. If the court loses jurisdiction, the defendant walks.

The standard misdemeanor penalty statute allows six months jail time. Alcohol-related vehicle offenses are serious offenses to public safety. Theyshould fall under this category as well.

We ask that these penalties be conformed to the 6 month time period but we do not oppose the lack of mandatory jail time on per se violations covered in penalty 61-8-722. We think we understand the legislative intent of this section.

We do ask that you give courts the adequatetime needed to insure your other mandates.

P Bradley

EXHIBIT 11
DATE 2-21-91
HB 783

Montana Magistrates Association

FEbruary 21, 1991

HB 783, Appeal from JUstice of city court on record.

Testimony by Pat Bradley, MMA, before House JUdiciary Committee

Mr. Chairman and Committee Members:

The MMA ~~takes a neutral position on this legislation~~ supports HB 783 with its optional provisions. amended bill not arrived, but we ~~wish to make a brief comment on behalf of our courts.~~

The courts are so busy with their caseloads that they have failed to do statistics reports, but we contend the proportion of cases appealed out of our courts is small in comparison to those tried.

Justice courts already use electronic recordings for trials in Small Claims court for review in District Court on appeal. This procedure works well.

Judges of courts of limited jurisdiction are trained and competent in matters of law. Trials are simply part of their work on a daily or weekly basis. Judges use the same Rules of Evidence benchbook that District Court judges use, and have several courses of training and updating in Rules of EVidence over the past few years. Judges are versed in Rules of Civil Procedure. A committee of J.P.s and city judges worked with the commission on courts to revise their own Montana Justce Court Rules of Civil Procedure recently and are working on the adoption process now.

Judges of the Supreme court and District courts have commended the continuing legal education the J.P.s and City Judges participate in two times each year, and have suggested this might be a good idea for all judges.

If anyone objects to this bill on the grounds that judges of courts of limited jurisdiction are not competent for this legislation, we submit to you they are ~~wrong~~. incorrect.

Every legislative session the jurisdiction of these courts is increased by the legislature. If this bill passes, we will oblige.

Thank you.

Pat Bradley

EXHIBIT 12
DATE 2.21.91
HB 767

Amendments to House Bill No. 767
First Reading Copy

Requested by Rep. Measure
For the Committee on the Judiciary

Prepared by John MacMaster
February 19, 1991

1. Page 2, line 19.
Strike: "nonrefundable"

2. Page 3, line 19.
Following: "cleaning."
Insert: "If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing."

3. Page 5, line 14.
Strike: "7-day"
Insert: "10-day"

4. Page 5, line 22.
Page 6, line 20.
Strike: "prospective"

5. Page 6, lines 1, 4, and 24.
Strike: "prospective"

EXHIBIT 13
DATE 2-21-91
HB 767

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB#767 **NUMBER**

MOTION: Johnson amendment to strike section 6. Fails

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR		✓
REP. ARLENE BECKER		✓
REP. WILLIAM BOHARSKI		✓
REP. DAVE BROWN	✓	
REP. ROBERT CLARK	✓	
REP. PAULA DARKO		✓
REP. BUDD GOULD	✓	
REP. ROYAL JOHNSON	✓	
REP. VERNON KELLER	✓	
REP. THOMAS LEE	✓	
REP. BRUCE MEASURE		✓
REP. CHARLOTTE MESSMORE	✓	
REP. LINDA NELSON		✓
REP. JIM RICE		✓
REP. ANGELA RUSSELL		✓
REP. JESSICA STICKNEY		✓
REP. HOWARD TOOLE		✓
REP. TIM WHALEN		✓
REP. DIANA WYATT	✓	
REP. BILL STRIZICH, CHAIRMAN	—	—
TOTAL	8	11

EXHIBIT 4
DATE 2-21-91
HB 767

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB# 767 **NUMBER** _____

MOTION: Measure DPA

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	✓	
REP. ARLENE BECKER	✓	
REP. WILLIAM BOHARSKI		✓
REP. DAVE BROWN	✓	
REP. ROBERT CLARK		✓
REP. PAULA DARKO	✓	
REP. BUDD GOULD		✓
REP. ROYAL JOHNSON		✓
REP. VERNON KELLER		✓
REP. THOMAS LEE		✓
REP. BRUCE MEASURE	✓	
REP. CHARLOTTE MESSMORE		✓
REP. LINDA NELSON	✓	
REP. JIM RICE	✓	
REP. ANGELA RUSSELL	✓	
REP. JESSICA STICKNEY	✓	
REP. HOWARD TOOLE	✓	
REP. TIM WHALEN	✓	
REP. DIANA WYATT		✓
REP. BILL STRIZICH, CHAIRMAN		✓
TOTAL	11	9

EXHIBIT 12
DATE 2-21-91
HB 768

Amendments to House Bill No. 768
First Reading Copy

Requested by Rep. Measure
For the Committee on the Judiciary

Prepared by John MacMaster
February 19, 1991

1. Page 15, line 11.
Strike: "the necessity of"

DATE 2-21-91
HB 768

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB 768 **NUMBER** _____

MOTION: Both amendment - put in "without cause"
delete sec. 10

"Fails"

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR		✓
REP. ARLENE BECKER		✓
REP. WILLIAM BOHARSKI	✓	
REP. DAVE BROWN	~~✓~~	✓
REP. ROBERT CLARK	✓	
REP. PAULA DARKO		✓
REP. BUDD GOULD	✓	
REP. ROYAL JOHNSON	✓	
REP. VERNON KELLER	✓	
REP. THOMAS LEE	✓	
REP. BRUCE MEASURE		✓
REP. CHARLOTTE MESSMORE	✓	
REP. LINDA NELSON		✓
REP. JIM RICE	✓	
REP. ANGELA RUSSELL		✓
REP. JESSICA STICKNEY		✓
REP. HOWARD TOOLE		✓
REP. TIM WHALEN		✓
REP. DIANA WYATT	✓	
REP. BILL STRIZICH, CHAIRMAN	✓	
TOTAL	10	10

EXHIBIT 14
DATE 2.21.91
HB 772

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** ~~HB#~~ 772 **NUMBER** _____

MOTION: Brooke: Table

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	—	
REP. WILLIAM BOHARSKI		—
REP. DAVE BROWN	X	
REP. ROBERT CLARK		—
REP. PAULA DARKO	—	
REP. BUDD GOULD		—
REP. ROYAL JOHNSON		—
REP. VERNON KELLER		—
REP. THOMAS LEE		—
REP. BRUCE MEASURE	—	
REP. CHARLOTTE MESSMORE		—
REP. LINDA NELSON	—	
REP. JIM RICE		—
REP. ANGELA RUSSELL	—	
REP. JESSICA STICKNEY	—	—
REP. HOWARD TOOLE		—
REP. TIM WHALEN		—
REP. DIANA WYATT		—
REP. BILL STRIZICH, CHAIRMAN	—	
TOTAL	8	11

EXHIBIT 20
DATE 2-21-91
HB 772

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21 **BILL NO.** HB #772 **NUMBER** _____

MOTION: Both Tabled

NAME	AYE	NO	
REP. VIVIAN BROOKE, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. DAVE BROWN	✓		
REP. ROBERT CLARK		✓	
REP. PAULA DARKO	✓		
REP. BUDD GOULD	~~✓~~		gone
REP. ROYAL JOHNSON		✓	
REP. VERNON KELLER	✓		
REP. THOMAS LEE	✓		
REP. BRUCE MEASURE	✓		
REP. CHARLOTTE MESSMORE		✓	
REP. LINDA NELSON	✓		
REP. JIM RICE		✓	
REP. ANGELA RUSSELL	✓		
REP. JESSICA STICKNEY	✓		
REP. HOWARD TOOLE	✓		
REP. TIM WHALEN	✓		
REP. DIANA WYATT	~~✓~~		gone
REP. BILL STRIZICH, CHAIRMAN	✓		
TOTAL	14	4	

EXHIBIT 21
DATE 2.21.91
HB 942

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB# 942 **NUMBER** _____

MOTION: Measure - table motion

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	✓	
REP. ARLENE BECKER		✓
REP. WILLIAM BOHARSKI		✓
REP. DAVE BROWN	✓	✓
REP. ROBERT CLARK		✓
REP. PAULA DARKO	✓	
REP. BUDD GOULD		✓
REP. ROYAL JOHNSON		✓
REP. VERNON KELLER		✓
REP. THOMAS LEE		✓
REP. BRUCE MEASURE	✓	
REP. CHARLOTTE MESSMORE		✓
REP. LINDA NELSON	✓	
REP. JIM RICE		✓
REP. ANGELA RUSSELL		✓
REP. JESSICA STICKNEY	✓	
REP. HOWARD TOOLE		✓
REP. TIM WHALEN		✓
REP. DIANA WYATT		✓
REP. BILL STRIZICH, CHAIRMAN		✓
TOTAL	5	13

EXHIBIT 22
DATE 2-21-91
HB 912

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21 **BILL NO.** 912 **NUMBER** _____

MOTION: Darko amend

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	—	—
REP. WILLIAM BOHARSKI	/	
REP. DAVE BROWN	—	—
REP. ROBERT CLARK	/	
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON	/	
REP. VERNON KELLER	/	
REP. THOMAS LEE	/	
REP. BRUCE MEASURE	/	
REP. CHARLOTTE MESSMORE	/	
REP. LINDA NELSON	/	
REP. JIM RICE	—	—
REP. ANGELA RUSSELL		/
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE		/
REP. TIM WHALEN		/
REP. DIANA WYATT		/
REP. BILL STRIZICH, CHAIRMAN		/
TOTAL	11	6

EXHIBIT 2-c
DATE 2-21-91
HB 912

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** 912 **NUMBER** _____

MOTION: _____

Lee - Do Pass as amended

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	—	—
REP. WILLIAM BOHARSKI	/	
REP. DAVE BROWN	—	—
REP. ROBERT CLARK	/	
REP. PAULA DARKO	/	
REP. BUDD GOULD	/	/
REP. ROYAL JOHNSON	/	
REP. VERNON KELLER	/	
REP. THOMAS LEE	/	
REP. BRUCE MEASURE	.	/
REP. CHARLOTTE MESSMORE	/	
REP. LINDA NELSON	/	
REP. JIM RICE	/	
REP. ANGELA RUSSELL		/
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	16	2

HB# 920
921
922
923

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO.

DATE 2-21-91 SPONSOR(S) Rep. Darko

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
JOHN McRAE DEPT OF SRS	CHILD SUPPORT DIVISION			X
Colette Baumgardner	Dem. Women's Caucus			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB# 942

DATE 2-27-91 SPONSOR(S) Rep. Beck

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
ART Hoffelfinger 2536 Heritage, Helena	Self			X
C. J. Lassila 2500 Villard Ave. Helena	Self + Montana Army National Guard 163rd Brigade			X
Capt Thomas S. Muri 320 Holter Ave	The men and women of Montana National Guard & Reserve			X
BG C. R. (Ron) Adams 2575 Stuart Helena, MT	163d Ar Bde MTARNG Bozeman, MT			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB #584

DATE 2-21-91 SPONSOR(S) Rep. Southworth

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Burris Box 2344 Billings 59103	Self	X	
~~Art Hoffart~~ Jacqueline N. Terrill	Am. Ins. Assoc.		X
Judy Browning	Atty Gen		X
Jim Murphy	State Fund		X
Hershel Robbins	MVSS. Valley Dev. Corp		X
Don Edwards	ACLU	X	
Lloyd E. Hartford	Self	X	
Lee Newgarden	Self MT Defense Trial Lawyers		✓
GENE PHILLIPS	NAII; Alliance Am Ins		X
John Alke	MT Defense Trial Lawyers		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB # 775

DATE 2-21-91 SPONSOR(S) Rep. Rice

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John Melcher Jr. Box 4608 Helena 59604	DES	X	
Dick Mocko Helena	Juv. Prob. officer Assoc.		✓
Mona Jamiesch	Juv. Prob. Officer Assoc.		✓
Boyd Good	Public Defender		✓
Ann Osenbruck	Juv Probation - Gallatin		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB# 931

DATE 2-21-91 SPONSOR(S) Rep. J. Rice

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Barry Michelotti 325 2Ave NO Great Falls	MSPOA Cascade County Sheriff	931		—

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB # 783

DATE 2-21-91 SPONSOR(S) Rep. Tagg

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pat Bradley	MT Magistrates Assn	X	
BRUCE McCANDLESS	CITY OF BILLINGS	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB# 912

DATE 2-21-91 SPONSOR(S) Rep. Toole

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jacqueline N. Terrell	Am. Ins. Assoc		X
Steve Browning	State Farm Insurance		X
Michael Sherwood	MTLA	X	
GENE PHILLIPS	NAII; Alliance Ind Ins		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB #839

DATE 2-21-91 SPONSOR(S) Rep. Lee

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB #766

DATE 2-21-91 SPONSOR(S) Rep. Tagg

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pat Bradley	Mt Magistrates Assn	+	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.