MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 3, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:40 a.m. on the above date in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present for this meeting.

WITNESSES APPEARING TO TESTIFY:

Senator Dunkle - District 15
Jim Hughes - Moutain Bell
D. B. Tooley - Montana Highway Patrol
Chad Smith - American Mutual Ins. Alliance
W. Boyce Clark - Independent Insurance Agents
Harold Parks - U. S. F. & G.
Glen Drake - American Insurance Assn.

CONSIDERATION OF SENATE BILL 185:

Senator Dunkle, chief sponsor of this bill, told the committee that the reason he had introduced the bill was because he realized that motorists carrying insurance needed protection from those who don't since he had been hit by uninsured vehicles three times who totalled his car out. He had the Legislative Council draft the bill for him. He said that he does not believe people who cannot afford insurance should be allowed to drive cars and that he would not oppose the committee making the bill workable by amendments.

The first proponent of S.B. 185 to speak was Jim Hughes, representing Mountain Bell, saying that they are for this bill but would like to see it amended in section 4 by inserting "ownership and operators" for "drivers" and in section 9 on page 11 by striking the material regarding valid claims of 90 days.

The next proponent was Duane Tooley of the Montana Highway Patrol who said that they fully support the concept of this bill with a couple of amendments. One was to define "non-residents". (Ex. 1)

Chad Smith, representing the American Mutual Insurance Alliance, was the next proponent of S.B. 185. He said they were concerned with how this law will be applied. He presented a prepared statement to the committee on this. (See Exhibit 2) He told the committee that every effort should be made to try to enforce responsibility upon the uninsured motorist.

The next proponent was W. Boyce Clarke, representing the Independent Insurance Agents, who read a prepared statement. He pointed out that they supported this bill but were disturbed with some material in section 19. (See Exhibit 3)

There were no more proponents of S.B. 185 present to testify.

The first opponent of this bill to testify was Harold Parks, manager of the U.S.F. & G., who attended this meeting at the request of Glen Drake, a Helena attorney and former senator. He said the problem for the underwriters is those who will not buy insurance. He said, after they have an accident and then want to buy insurance, they will be faced with a high premium or they may not be able to buy it at all.

Former Senator Glen Drake, representing the American Insurance Association, was the next opponent of S.B. 185 to testify. He read a statement from a conference on "No-Fault Insurance" which had been held in San Franciso on mandatory insurance. (See Exhibit 4) He then told the committee that the mandatory system presents real problems in that the less well-endowed persons may rebel against buying mandatory insurance. He said that he felt that the cost was under-estimated for this bill as the fiscal note does not address the problem of the assigned risk plan and that the cost will be tremendous for the state - in fact, it will be prohibitive. He then suggested an amendment for page 3 and said that this could be corrected by going to page 8, subsection (c) and making that an "exclusive" right. He further stated that the premium cost to the average citizen, if the bill is passed, should be considered because it takes away all policy defenses and it also makes it mandatory that the person driving the motor vehicle is covered, thereby making it necessary to raise premiums and the ability to exclude any person from coverage on a policy would be eliminated.

There being no more witnesses to testify, the Chairman allowed Senator Dunkle to close. He said that he doesn't like to hear insurance companies say that the rates will go up for the insured to make up for those who don't carry insurance, and that those who are not good risks should be cancelled. He suggested that a motorist when stopped by a patrolman should have to show his insurance certificate along with his registration slip and driver's license. He then told the committee that approximately 25% of the driving public are uninsured.

The chairman then allowed committee members to ask questions of the witnesses.

There being no further business, the committee adjourned at 11:00 a.m.

SENATOR JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-3-77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret	✓		

Montana S. B. 185
(Introduced Bill)

Motor Vehicles -
Financial Responsibility

SYNOPSIS: Revises financial responsibility laws, Title 53, Chapter 4, to provide for motor vehicle liability protection as a condition of operation of vehicles upon highways or property open to use by the public. The key provision of the bill, which is contained in Section 3, requires that a motor vehicle may not be registered unless it is covered by a suitable motor vehicle liability policy.

COMMENT: The major provisions of this bill will not have any adverse impact on the Company, since the bill provides that vehicles owned by self-insurers such as Mountain Bell are exempt from the requirements of liability insurance coverage. Section 4 (3), page 4. However, there are two amendments that should be made in the self-insurer provisions. First, Section 4 - the exemption section - provides: "The following vehicles and their drivers are exempt from the provisions of this act:". I think that "owners and operators" should be substituted for "drivers" in this phrase, since the former term is defined in the definitions section, page 2, whereas the latter term, "drivers," is not. Second, and more important, Section 9 of the bill, which sets forth the requirements for self-insurers, provides that failure to pay a valid claim within 90 days of its submission is a reasonable ground for the cancellation of a certificate of self-insurance. Section 9 (3), page 11. This is an addition to the present law on self-insurers, which is contained in 50-451, and which provides that failure to pay a final judgment within 30 days is a reasonable ground for cancellation of a certificate of self-insurance. The problem with the "valid claim" addition is: "Who determines whether or not a claim is valid?" Under the bill as written, the validity of a claim would have to be determined by the Department of Justice, yet this is not the business of the Department. On the contrary, the determination of the validity or non-validity of a claim can be made only by a court. In short, self-insurers should not be singled out for subjection of their claims policies to [redacted] the Department of Justice. The public is adequately protected under the present law, which is preserved by this bill, and which provides that a self-insurer may have its certificate of self-insurance revoked for failure to pay final judgments

within 30 days. I would strongly recommend that the phrase "valid claim within 90 days of its submission or" be deleted from Section 9 of this bill, page 11, line 21.

- FROM AMER MUTUAL INS ALLIANCE
CHAD SMITH
BOX 604
HELENA 442-2980

A BILL TO BE ENTITLED

AN ACT

BE IT ENACTED BY THE LEGISLATURE OF ____:

(Ex. 2)

Financial security prerequisite to registration.

a) No self-propelled motor vehicle shall be registered in this state unless the owner, at the time of registration, has financial security for the operation of such motor vehicle as provided in this article. The owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration.

b) Financial security shall be provided by a liability insurance policy or a security bond or a security deposit or by qualification as a self-insurer. Such financial security shall be the ability to respond in damages, on account of accidents occurring subsequent to the effective date of such financial security, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of $,000 because of injury to or death of one person in any one accident and subject to said limit for one person, in the amount of $,000 because of bodily injury to or death of two or more persons in any one accident, and in the amount of $,000 because of injury to or destruction of property of others in any one accident.

c) The director shall require that the owner certify as to the existence of such insurance as will satisfy the requirements set forth in subsection b above at the time of registration. The owner shall certify as to the existence of an alternative type of security authorized in b above if qualified by the director. Failure to so certify shall be prima facie evidence that no financial security exists with regard to the vehicle concerned and the commissioner shall revoke the owner's registration plate for 60 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial security, be re-registered in the name of the registered owner, his spouse, or any child of the spouse, or any child of such owner, within less than 60 days after the date of receipt of the registration plate by the director. As a condition precedent to the re-registration of the vehicle, the owner shall pay the appropriate fee for a new registration plate.

It shall be the duty of insurance companies, upon the request of the director to verify the accuracy of any owner's certification. Failure by an insurance company to deny coverage within twenty (20) days may be considered by the director as an acknowledgment that the information as submitted is correct.

d) When liability insurance with regard to any motor vehicle is terminated by cancellation or failure to renew, or the owner's financial security for the operation of any motor vehicle is otherwise terminated, the owner shall forthwith surrender the registration certificate and plates of the vehicle to the director unless financial security is maintained in some other manner in compliance with this article.

Failure of an owner to deliver certificate of registration and plates after revocation.

Failure of an owner to deliver the certificate of registration and registration plates issued by the director after revocation thereof as provided in this article, shall constitute a misdemeanor.

Operation of a motor vehicle without financial security is a misdemeanor.

a) On or after July 1, 1977, any owner of a motor vehicle registered or required to be registered in this state who shall operate or permit such motor vehicle to be operated in this state without having in full force and effect the financial security required by this article shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.

b) Evidence that the owner of a motor vehicle registered or required to be registered in this state has operated or permitted such motor vehicle to be operated in this state, coupled with proof of records of the director indicating that the owner did not have financial security applicable to the operation of the motor vehicle shall be prima facie evidence that such owner did at the time and place alleged, operate or permit such motor vehicle to be operated without having in full force and effect financial security required by the provisions of this article.

Making false certification or giving false information is a misdemeanor.

a) Any owner of a motor vehicle registered or required to be registered in this state who shall make a false certification concerning financial security for the operation of such motor vehicle shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.

b) Any person, firm or corporation giving false information to the commissioner of the department of motor vehicles concerning another's financial security for the operation of a motor vehicle registered or required to be registered in this state, knowing or having reason to believe that such information is false, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.

The director is to administer article; rules and regulations.

The director shall administer and enforce the provisions of this article relating to registration of motor vehicles and may make necessary rules and regulations for its administration.

Insurance required by any other law; certain operators not affected.

This article shall not be held to apply to or affect the policies of automobile insurance against liability which may now or hereafter be required by any other law of this state and such policies, if they contain an agreement or are endorsed to conform to the requirements of this article, may be certified as proof of financial security under this article; provided, however, that nothing contained in this article shall affect operators of motor vehicles that are now or hereafter required to furnish evidence of insurance or financial responsibility to the Interstate Commerce Commission, but to the extent that any insurance policy, bond, or other agreement filed with the Interstate Commerce Commission as evidence of financial responsibility affords less protection to the public than the financial security required to be certified to the director under this article as a condition precedent to registration of motor vehicles, the amounts, provisions and terms of such policies, bond or other agreement so certified shall be deemed to be modified to conform to the financial security required to be proved under this article as a condition precedent to registration of motor vehicles in this state. It is the intention of this section to require owners of self-propelled motor vehicles registered in this state and operated under permits from the Interstate Commerce Commission to show and maintain proof of financial responsibility

which is at least equal to the proof of financial security required of other owners of self-propelled motor vehicles registered in this state.

Conflicting laws.

Existing laws which are inconsistent with the provisions of this article are repealed to the extent of their inconsistency.

Guidelines for the Enforcement of Compulsory Automobile Insurance by State Regulatory Authorities

The Insurance Industry Committee on Motor Vehicle Administration (IICMVA) recognizes from past experience that no system of enforcement can achieve total compliance, at all times, by every motor vehicle registrant with the requirements of a compulsory automobile insurance law. Past attempts by the state regulatory authorities to enforce such all-inclusive compliance have proven to be exercises in futility.

Just as it is impossible at any point in time to guarantee that every motorist on the road is properly licensed, or that every motor vehicle is legally registered, so is it impossible to guarantee that every motor vehicle subject to a compulsory law is properly insured. Any system attempting to accomplish such all-inclusive compliance must be reckoned with in the light of the law of diminishing returns. Such a system invariably attempts to track down the uninsured minority by keeping tabs on the insured majority, the returns of which do not justify the attendant administrative difficulties and expenses involved. More importantly, an inevitable side effect of such a system is that the insured public becomes unnecessarily harassed.

The burden of compliance with the insurance requirements of a motor vehicle law should be directed at the uninsured registrant, backed up with an effective program of enforcement that does not harass the law-abiding citizens or otherwise involve them, the state regulatory authorities and insurance industry in administratively expensive, ineffective, and time consuming reams of paper work.

The IICMVA further believes that, in the security section of a compulsory law, a general provision should be included by which the state regulatory authorities are empowered to promulgate whatever rules and regulations or administrative guidelines are necessary to enforce the intent of the law. This would permit flexibility in revising a system of enforcement as experience dictates, without resorting to amendatory legislation necessitated by impractical statutory provisions.

As encountered in several states, specific enforcement procedures embodied in statutory provisions have not properly taken into account either the administrative difficulties involved, or whether the regulatory authorities were equipped or even given sufficient funds to carry them out. As experience has proven, these difficulties can be avoided under a general enforcement provision which will enable the regulatory authorities to work out appropriate initial enforcement procedures, including any changes subsequently needed to fit changing circumstances, with the assistance made available by the IICMVA.

With the foregoing understood as the IICMVA's position in general regarding the enforcement of insurance requirements under motor vehicle laws, below is a list of recommended guidelines deemed desirable in the order of preference by which such enforcement can be implemented. These guidelines involve enforcement procedures relating to Evidence of Insurance, Verification of Insurance, and Termination of Insurance. As an additional matter that may be affected by whatever enforcement procedures are eventually adopted, a general guideline concerning Evidence of Mailing is also set out.

Regarding basic priorities in terms of the need for enforcement and its economical implementation, it is recommended that the Self-certification described under Evidence of Insurance be established as a minimum requirement for the enforcement procedures of a compulsory law. Should additional enforcement procedures be considered, it is recommended that Self-certification be combined with the Random Verification described under Verification of Insurance.

Following each of the guidelines are certain procedures which, deemed especially undesirable in the order shown, should be discouraged. Experience has proven them to be generative in one or more respects of unnecessary public harassment, regulatory difficulties, and administrative expense. In the process, enforcement efforts and funds are dissipated on the insured majority of registrants who are in compliance with the law, rather than being concentrated more effectively on identifying the uninsured minority of registrants attempting to circumvent the law.

A. EVIDENCE OF INSURANCE

Desirable - The registrant of a motor vehicle subject to the requirements of a compulsory automobile insurance law can be ordered to indicate compliance upon registration of the vehicle.

1. Self-certification: A statement of self-certification by the registrant for an initial or renewal registration, indicating that he has and will maintain the insurance required by law throughout the period of registration, the violation of which will subject him to specified penalties. Also to be shown are the name of insurance company and policy number involved.

   It is recommended that effective penalties be imposed for false certification.

   It is also recommended that self-certification be established as a minimum requirement for the enforcement of a compulsory law, with such self-certification to serve as the foundation upon which to build any additional enforcement procedures that may be contemplated.

2. ID Cards: A requirement that insurance companies provide policyholders a non-prescribed insurance identification card as an aid for the insured in completing his statement of self-certification upon registration.

   If ID cards are to be prescribed in format and specifications, they should be issued on a permanent non-certified basis, valid so long as the policy remains in effect and the required data remains the same.

Undesirable - Certificates of insurance and prescribed ID cards should be discouraged as having no bearing on whether or not the insurance indicated is in effect, or otherwise has been and will be maintained throughout the period of registration. Routine cancellations by the registrant and submissions of fraudulent certificates and ID cards can be expected.

1. Certificates of Insurance: To be issued by the insurance company for submission by the insured upon registration. This inevitably generates a multiplicity of other certificates involving further communication between the public, the industry, and the regulatory authorities in a futile attempt to identify the uninsured registrant.

2. Prescribed ID Cards: To be provided upon the initial issuance of a policy and every renewal thereof. Because of the frequency in which payments of renewal premiums are delayed, requiring the issuance of prescribed ID cards is especially conducive to public harassment.

B. VERIFICATION OF INSURANCE

Desirable - Should additional enforcement procedures be considered with self-certification established as a prerequisite to the registration of a motor vehicle, it is recommended that priority be given to a procedure for random verification of the insurance certified by registrants.

Random Verification - Negative Basis: Statements of self-certification selected at random by the regulatory authorities for verification on a negative basis by the insurance companies involved. The negative basis of verification requires a response from the company regarding only the self-certifications which, based on the company name and policy number provided, indicate falsification. On this basis, enforcement efforts and attendant administrative expenses are further concentrated on the uninsured minority of registrants who are in violation of the law.

Additional verification may be conducted in connection with accidents, moving traffic violations, and road spot checks. In such instances, however, the name of insurance company and policy number involved must be provided as required for the random verifications pursuant to registration.

Undesirable - Verification procedures entailing correspondence that also involves the insured majority of registrants should be avoided to the extent possible. They are wasteful of the attendant administrative expenses that otherwise could be more efficiently applied in identifying the uninsured registrant.

Positive Verification: A procedure which dissipates enforcement efforts by requiring the handling of responsive correspondence not only in negation of the uninsured minority of registrants, but also in positive verification of the majority of insured registrants.

C. TERMINATION OF INSURANCE

Desirable - If the regulatory authorities are to require insurance companies to notify them whenever an automobile policy is terminated, it is recommended that this requirement be qualified by making it apply only to bona fide terminations involving registrants newly insured by a company. Regulatory

authorities will thereby avoid the futility of expending enforcement efforts on the many registrants who, although apparently terminated, have continued to maintain the required insurance in effect. Such registrants are frequently found either to have delayed their payment of premium or, in the case of reliable insureds, changed insurance companies.

> Qualified Notice of Termination: Any requirement of companies to file a notice of termination with the regulatory authorities should be qualified to affect only those cancellations or terminations that are firmed up and take place within a limited period of time following issuance of the original policy.

Undesirable - To be discouraged is any unqualified requirement of companies to file with the authorities a notice of termination in disregard of commonly encountered circumstances that render the notice unnecessary. Such unrestricted notice should not be required when an insured is possibly dilatory in the payment of premium. Neither should it be required when an insured can be sufficiently relied upon to continue in effect the insurance he is required to have.

> Unqualified Notice of Termination: A notice which is required to be filed on an unqualified basis, irrespective of whether or not the insured apparently being terminated is or will in fact be terminated. Affected by this type of notice are numerous embryonic situations which do not develop into effective terminations. Frequently involved are reliable insureds who, having kept their policies in effect with the company beyond a certain period of time, continue to remain insured without lapse of coverage. This is accomplished with either a delayed payment of premium or a change of insurance companies.
>
> Prematurity is the most undesirable aspect of an unqualified notice which is not firmed up, but instead required to be filed in advance of or immediately upon the indicated date of cancellation or termination. Such notices are very frequently invalidated by a belated payment of premium, as a result of which the policy in question is continued in force rather than terminated according to the premature notice.
>
> Invariably involved with the filing of unqualified notices of termination is not only a waste of administrative expense but also, more significantly, the subsequent enforcement efforts which result in needless harassment of the public who are insured in compliance with the law.

EVIDENCE OF MAILING

Desirable - Should the insurance companies or regulatory authorities be required to show evidence of having mailed any documents required for the administration of a compulsory insurance law, it is recommended that the procedures currently established by them be recognized on the basis of their own merits.

Certificate of Mailing: If some uniform evidence of mailing is to be required, it is recommended that this be the U.S. Postal Service Certificate of Mailing, PS Form 3817.

Undesirable - Any required change in currently established mailing procedures should be discouraged as disruptive of procedures having been tested in court and continuing to be used successfully for the purposes intended.

Certified or registered Mail: To be especially avoided because of the administrative expenses entailed is any requirement that mail be processed by certified or registered mail.

The above guidelines are not intended to be descriptive of all the ramifications that may be involved with the enforcement of a particular compulsory law. Feasible enforcement procedures depend on a variety of factors, some of which may be unique to a particular state. To be considered in any event, however, are not only the resources and facilities available to the regulatory authorities, but also the capability of insurance companies to comply with whatever procedures are contemplated.

Consequently, it is recommended that appropriate procedures and details involved be worked out in consultation with the IICMVA. To be of assistance in this regard, a mutually convenient meeting with representatives of the IICMVA can be arranged upon request.

(Ex. 2) 1

W Bryce Clark
HB-316
SB-185

28 JAN 77

INDEPENDENT INSURANCE AGENTS OF MONTANA, PROBABLY AS MUCH AS ANY SEGMENT OF OUR POPULATION, ARE ACUTELY AWARE OF THE UNDERLYING REASONS HB-316 AND SB-185 HAVE BEEN INTRODUCED TO THIS LEGISLATIVE ASSEMBLY. WE HANDLE A LOT OF AUTO LIABILITY CLAIMS AND MORE AND MORE, WE FIND THAT OUR CLIENTS ARE BEING INVOLVED IN ACCIDENTS WITH UNINSURED MOTORISTS. EVEN WORSE, MANY OF THESE UNINSURED MOTORISTS ARE REPEATERS AND MANY DON'T EVEN HAVE DRIVERS LICENSES. THIS COMMITTEE NOW HAS UNDER CONSIDERATION FIVE DWI BILLS, ALL MORE OR LESS RELATED TO THE UNINSURED MOTORIST PROBLEM.

WE KNOW THERE ARE A LOT OF UNINSURED MOTORISTS IN MONTANA. I'D WAGER MANY OF THEM ARE HIGH RISK PEOPLE FOR WHOM LIABILITY INSURANCE PREMIUMS WOULD BE HIGH. AS AGENTS, WE PROBABLY SHOULD SUPPORT THIS LEGISLATION FROM A PURELY SELFISH STANDPOINT, FOR, IF IT IS PASSED, THERE WILL BE A LOT OF ADDITIONAL AUTO LIABILITY INSURANCE WRITTEN AND IN HIGH PREMIUM LEVELS. AND SPEAKING OF JUST WHAT IS INVOLVED PREMIUM-WISE FOR JUST A FEW REPRESENTATIVE CLASSES OF DRIVERS IN VARIOUS PARTS OF MONTANA, HERE ARE SOME INDICATIONS. FOR AN 18 YEAR OLD UNMARRIED MALE WITH A CLEAN DRIVING RECORD WITH $25/50 BI LIMITS AND $10,000 PD, RESIDING IN BILLINGS, THE ANNUAL PREMIUM WOULD RANGE BETWEEN $400 AND $500. IN HAVRE, THE RANGE WOULD BE $225-$250 WITH TWO OTHER MONTANA TERRITORIES IN BETWEEN. FOR A 23 YEAR OLD MARRIED MALE, UNDER THE SAME CIRCUMSTANCES, RESIDING IN BILLINGS, THE RANGE WOULD BE $160-$165 AND IN HAVRE, $75-$100. FOR THE AVERAGE FAMILY MAN OVER 30 WITHOUT CHILDREN OF DRIVING AGE, RESIDING IN BILLINGS, THE RANGE OF $125-$145 AND IN HAVRE, $65-$85. NOW, ADD TO THESE BASIC PREMIUMS THE CHARGES FOR TRAFFIC VIOLATION AND ACCIDENTS, OR EVEN SUBTRACT FOR CREDITS ALLOWED FOR DRIVER TRAINING, GOOD STUDENT, OR EVEN MULTIPLE CARS AND YOU WILL SEE THAT A LOT OF MONEY IS INVOLVED.

HISTORICALLY, THE ATTITUDE OF INDEPENDENT INSURANCE AGENTS ON THE GENERAL SUBJECT OF COMPULSORY AUTO LIABILITY INSURANCE HAS BEEN NEGATIVE. WE HAVE A NUMBER OF REASONS FOR THIS ATTITUDE, BUT BEFORE GOING INTO THEM IN A GENERAL WAY, LET ME SAY THIS . . . . . IF, IN THE WISDOM OF THIS COMMITTE, AND ULTIMATELY THIS LEGISLATIVE ASSEMBLY, IT IS DETERMINED THAT THIS LEGISLATION, MODIFIED OR OTHERWISE, IS TO BE THE LAW OF THE LAND, WE, INDEPENDENT INSURANCE AGENTS OF MONTANA, WILL DO OUR BEST TO MAKE IT WORK.

IN THE MEANTIME, HOWEVER, WE DO HAVE SOME RESERVATIONS AS TO THE PRACTICAL APPLICATION OF THE CONDITIONS OF THIS PROPOSED LAW. FIRST, THERE IS EXPERIENCE WITH COMPULSORY AUTO LIABILITY INSURANCE LEGISLATION IN OTHER STATES. MASSACHUSSETTS STARTED BACK IN 1929 AND HAS, FROM THAT DAY TO THIS, NEVER SOLVED THE PROBLEM. NEW YORK ATTEMPTED COMPULSORY AUTO LIABILITY INSURANCE A NUMBER OF YEARS AGO AND, IF MY MEMORY SERVES CORRECTLY, THEIR EXPERIENCE PROVED THAT REGARDLESS OF EXTREME EFFORT, THE MAXIMUM NUMBER OF MOTORISTS THEY COULD GARNER UNDER THE LAW WAS ABOUT 90%. INTERESTINGLY ENOUGH, BOTH OF THESE STATES NOW HAVE NO FAULT STATUTES, EFFECTIVE OR OTHERWISE, BUT WHICH MEANS TO US, THAT THE COMPULSORY FORM OF AUTO LIABILITY INSURANCE DID NOT SOLVE THEIR UNINSURED MOTORIST PROBLEM. THESE STATES HAVE FOUND THAT THE ADMINISTRATIVE WORK, BOTH FROM THE STANDPOINT OF THE INSURANCE COMPANIES AND THE RESPONSIBLE STATE DEPARTMENTS, PLUS THE ADDED EXPENSE OF ENFORCEMENT WAS DEVASTATINGLY EXPENSIVE, . . . AND NOT PARTICULARLY EFFECTIVE SINCE THE UNINSURED MOTORISTS CONTINUED TO DRIVE AND TO HAVE ACCIDENTS.

IN THIS PARTICULAR BILL, THERE ARE MANY TIME LINES THAT WILL BE DIFFICULT, IF NOT WELL NIGH IMPOSSIBLE, TO MEET UNDER THE COMPUTER TYPE PROCESSING SYSTEMS NOW IN GENERAL USE.

A DISTURBIN AREA OF THE BILL HAS TO DO WITH THE ASSIGNED CLAIMS PLAN REFERED TO UNDER SECTION 19 (3), LINES 2 THROUGH 12 ON PAGE 17. I DON'T KNOW IF THIS PARTICULAR ARRANGEMENT HAS EVER BEEN TRIED ELSEWHERE, BUT THERE ARE SOME THINGS ABOUT THE SECTION THAT RAISE QUESTIONS. FIRST, UNDER JUST WHAT CIRCUMSTANCES IS A CLAIM ELIGIBLE FOR PROCESSING. DOES ANY PERSON WHO FEELS AGGRIEVED, WITHOUT DETERMINATION OF FAULT, IN WHOLE OR IN PART, HAVE ACCESS TO THE ASSIGNED CLAIMS PLAN? WOULD THIS APPLY TO FIRST DOLLAR LOSS, OR TO BE MORE SPECIFIC, TO MINOR LOSSES SAY, PARKING LOT CLAIMS FROM $5 TO $50? SECONDLY, IT SEEMS THAT ANY LOSSES PAYABLE UNDER THIS SECTION WOULD BE ADJUDICATED UNDER A PLAN DEVELOPED BY THE INSURANCE COMMISSIONER REQUIRING PARTICIPATION BY ALL COMPANIES AUTHORIZED TO WRITE AUTO LIABILITY INSURANCE IN MONTANA . . . . BUT THERE ARE NO GUIDELINES. IT WOULD SEEM TO US THAT THE EFFECT OF THE ARRANGEMENT OF CHARGING THE UNINSURED CLAIMS BACK TO THE INSURANCE COMPANIES WILL SIMPLY HAVE TO BE PASSED ON BY INCREASING THE PREMIUMS OF CONSUMERS WHO ALREADY COMPLY WITH THE LAW BY PURCHASING AUTO LIABILITY INSURANCE.

SOMEHOW, IT SEEMS TO US, IF LEGISLATION OF THIS SORT IS GOING TO BE SUCCESSFUL, THE RESPONSIBILITY FOR ENFORCING AND POLICING IS GOING TO HAVE TO BE SHIFTED TO THE UNINSURED MOTORIST HIMSELF, RATHER THAN BACK TO THE LAW ABIDING CITIZEN WHO VOLUNTARILY PURCHASES INSURANCE AS A MATTER OF SOCIAL RESPONSIBILITY.

INDEPENDENT AGENTS HAVE GIVEN THIS SUBJECT MUCH THOUGHT OVER THE YEARS, MORE ESPECIALLY IN THE IMMEDIATE PAST, BUT A FAIL SAFE SOLUTION ELUDES US. WE ARE OPEN MINDED AND COMMITTED TO TRYING TO MAKE A PRACTICAL REFORM PROGRAM WORK.

W Bruce Nolan

LEGISLATIVE COUNSEL
INDEPENDENT INSURANCE AGENTS OF MONTANA

Eben Drake

(Ex. 4)

Conference on "No-Fault Insurance"
Council of State Governments
San Francisco, California
March 2, 1972

Speakers at the "no-fault" conference addressed their remarks to six areas which they felt require consideration in any legislative action on the subject. The six areas are: (1) indemnity and coverages; (2) tort limitations; (3) insurance requirements; (4) subrogation, reimbursement and coordination of coverages; (5) applicability of coverage; and (6) prompt and certain payment provisions.

The following is a summary of the comments which were made concerning each of these six areas.

1. Indemnity and Coverages

The speaker assumed that most states would consider "no-fault" plans which would provide coverage for actual economic loss. Reparations for general damages, or pain and suffering, would be restricted in a "no-fault" plan.

If a state opts for specific limitations on the maximum reimburseable economic damages, data should be collected which indicate what portion of claims would be fully compensated by this limitation. For example, in the Illinois "no-fault" plan, medical and funeral expenses are limited to $2,000 per person, benefits for lost wages are limited to 80% to a maximum of $150 per week for 52 weeks, and household services are limited to $12 per day for one year. The maximum mandatory limits cover between 95% and 98% of all claims in Illinois. In addition, companies selling auto insurance must offer additional coverage.

Legislators should consider the following items for their own state: loss statistics, urban-rural patterns and medical charges within the state.

One factor which must be considered if unlimited coverage is to be made available is that the increased cost of unlimited coverage may not be significant, but state insurance statutes may require a specific reserve fund for some portion of the outstanding insurance policies. Since coverage amounts would be unlimited, a state insurance pool may have to be created to provide the companies with reinsurance.

2. Limitation of Tort Liability

The speaker felt one of the most serious problems with the present system is the tardy nature of recovery under tort. Any reform should therefore work to hasten the settlement of claims.

There was a considerable dissension among the members of the panel concerning federal intervention in the field of automobile insurance. However, the panel members agreed that insurance reform would have to come either from the states or the federal government. The

setts have all adopted mandatory "no-fault" systems.

A mandatory system has several real advantages. It is equitable in that if one motorist pays for insurance protection, then everyone should be required to provide himself and his passengers with insurance coverage. The system eliminates the problem of the uninsured motorist. It would also provide a broad base and complete data for actuarial computations and rate making.

In reality a mandatory system presents severe problems. The bad risk must be insured through some type of an assigned risk plan, most likely one sponsored by the government. Wealthy people and large businesses in effect have self-insurance capability and the mandatory requirement is no burden. However, the less well endowed individual may rebel at buying insurance for an automobile which is worth less than the cost of insurance.

Enforcement of a compulsory insurance law can also be difficult. For this reason, financial responsibility laws have been adopted in Montana as well as most other states. It should be noted that with a "no-fault" insurance system the non-insured driver runs a greater risk of financial loss than he does under a tort liability system. While he would be entitled to reparations under the present system if another driver were judged to be negligent, under a "no-fault" system he could not collect for damages unless his expenses exceeded a specified minimum.

4. Subrogation, Reimbursement and Coordination of Coverage

Trucks and other commercial carriers present special problems in the area of reimbursement and subrogation for a "no-fault" system. For every hundred fatalities involving trucks and passenger cars, ninety-eight are occupants of passenger cars and only two are truck occupants. The speaker identified two reimbursement provisions which have been devised in view of this situation. Damages may be allocated in car-truck collisions in proportion to the weight of the respective vehicles or a binding system of arbitration may be used to determine liability in such an accident. Reparations would then be based on the fault concept.

Since many people involved in accidents would be covered by Workmen's Compensation or health and accident insurance of some type, a "no-fault" system must specify which type of coverage has priority. Generally, the "no-fault" insurance is made the initial source of recovery because it is felt that the burden of auto accident expenses should be placed on the insurance which specifically provides protection in this sort of accident. However, an argument exists for deducting any benefits obtained from Workmen's Compensation since employees do not have the option of rejecting Workman's Compensation.

Most "no-fault" plans also forbid dual recovery from collateral sources

5. Applicability of Coverage

"No-fault" systems usually provide coverage for the policy holder, passengers in the insured auto, and the policy holder's household

Guidelines for the Enforcement of Compulsory Automobile Insurance by State Regulatory Authorities

The Insurance Industry Committee on Motor Vehicle Administration (IICMVA) recognizes from past experience that no system of enforcement can achieve total compliance, at all times, by every motor vehicle registrant with the requirements of a compulsory automobile insurance law. Past attempts by the state regulatory authorities to enforce such all-inclusive compliance have proven to be exercises in futility.

Just as it is impossible at any point in time to guarantee that every motorist on the road is properly licensed, or that every motor vehicle is legally registered, so is it impossible to guarantee that every motor vehicle subject to a compulsory law is properly insured. Any system attempting to accomplish such all-inclusive compliance must be reckoned with in the light of the law of diminishing returns. Such a system invariably attempts to track down the uninsured minority by keeping tabs on the insured majority, the returns of which do not justify the attendant administrative difficulties and expenses involved. More importantly, an inevitable side effect of such a system is that the insured public becomes unnecessarily harassed.

The burden of compliance with the insurance requirements of a motor vehicle law should be directed at the uninsured registrant, backed up with an effective program of enforcement that does not harass the law-abiding citizens or otherwise involve them, the state regulatory authorities and insurance industry in administratively expensive, ineffective, and time consuming reams of paper work.

The IICMVA further believes that, in the security section of a compulsory law, a general provision should be included by which the state regulatory authorities are empowered to promulgate whatever rules and regulations or administrative guidelines are necessary to enforce the intent of the law. This would permit flexibility in revising a system of enforcement as experience dictates, without resorting to amendatory legislation necessitated by impractical statutory provisions.

As encountered in several states, specific enforcement procedures embodied in statutory provisions have not properly taken into account either the administrative difficulties involved, or whether the regulatory authorities were equipped or even given sufficient funds to carry them out. As experience has proven, these difficulties can be avoided under a general enforcement provision which will enable the regulatory authorities to work out appropriate initial enforcement procedures, including any changes subsequently needed to fit changing circumstances, with the assistance made available by the IICMVA.

With the foregoing understood as the IICMVA's position in general regarding the enforcement of insurance requirements under motor vehicle laws, below is a list of recommended guidelines deemed desirable in the order of preference by which such enforcement can be implemented. These guidelines involve enforcement procedures relating to Evidence of Insurance, Verification of Insurance, and Termination of Insurance. As an additional matter that may be affected by whatever enforcement procedures are eventually adopted, a general guideline concerning Evidence of Mailing is also set out.

Regarding basic priorities in terms of the need for enforcement and its economical implementation, it is recommended that the Self-certification described under Evidence of Insurance be established as a minimum requirement for the enforcement procedures of a compulsory law. Should additional enforcement procedures be considered, it is recommended that Self-certification be combined with the Random Verification described under Verification of Insurance.

Following each of the guidelines are certain procedures which, deemed especially undesirable in the order shown, should be discouraged. Experience has proven them to be generative in one or more respects of unnecessary public harassment, regulatory difficulties, and administrative expense. In the process, enforcement efforts and funds are dissipated on the insured majority of registrants who are in compliance with the law, rather than being concentrated more effectively on identifying the uninsured minority of registrants attempting to circumvent the law.

A. EVIDENCE OF INSURANCE

Desirable - The registrant of a motor vehicle subject to the requirements of a compulsory automobile insurance law can be ordered to indicate compliance upon registration of the vehicle.

1. Self-certification: A statement of self-certification by the registrant for an initial or renewal registration, indicating that he has and will maintain the insurance required by law throughout the period of registration, the violation of which will subject him to specified penalties. Also to be shown are the name of insurance company and policy number involved.

   It is recommended that effective penalties be imposed for false certification.

   It is also recommended that self-certification be established as a minimum requirement for the enforcement of a compulsory law, with such self-certification to serve as the foundation upon which to build any additional enforcement procedures that may be contemplated.

2. ID Cards: A requirement that insurance companies provide policyholders a non-prescribed insurance identification card as an aid for the insured in completing his statement of self-certification upon registration.

   If ID cards are to be prescribed in format and specifications, they should be issued on a permanent non-certified basis, valid so long as the policy remains in effect and the required data remains the same.

Undesirable - Certificates of insurance and prescribed ID cards should be discouraged as having no bearing on whether or not the insurance indicated is in effect, or otherwise has been and will be maintained throughout the period of registration. Routine cancellations by the registrant and submissions of fraudulent certificates and ID cards can be expected.

1. Certificates of Insurance: To be issued by the insurance company for submission by the insured upon registration. This inevitably generates a multiplicity of other certificates involving further communication between the public, the industry, and the regulatory authorities in a futile attempt to identify the uninsured registrant.

2. Prescribed ID Cards: To be provided upon the initial issuance of a policy and every renewal thereof. Because of the frequency in which payments of renewal premiums are delayed, requiring the issuance of prescribed ID cards is especially conducive to public harassment.

B. VERIFICATION OF INSURANCE

Desirable - Should additional enforcement procedures be considered with self-certification established as a prerequisite to the registration of a motor vehicle, it is recommended that priority be given to a procedure for random verification of the insurance certified by registrants.

Random Verification - Negative Basis: Statements of self-certification selected at random by the regulatory authorities for verification on a negative basis by the insurance companies involved. The negative basis of verification requires a response from the company regarding only the self-certifications which, based on the company name and policy number provided, indicate falsification. On this basis, enforcement efforts and attendant administrative expenses are further concentrated on the uninsured minority of registrants who are in violation of the law.

Additional verification may be conducted in connection with accidents, moving traffic violations, and road spot checks. In such instances, however, the name of insurance company and policy number involved must be provided as required for the random verifications pursuant to registration.

Undesirable - Verification procedures entailing correspondence that also involves the insured majority of registrants should be avoided to the extent possible. They are wasteful of the attendant administrative expenses that otherwise could be more efficiently applied in identifying the uninsured registrant.

Positive Verification: A procedure which dissipates enforcement efforts by requiring the handling of responsive correspondence not only in negation of the uninsured minority of registrants, but also in positive verification of the majority of insured registrants.

C. TERMINATION OF INSURANCE

Desirable - If the regulatory authorities are to require insurance companies to notify them whenever an automobile policy is terminated, it is recommended that this requirement be qualified by making it apply only to bona fide terminations involving registrants newly insured by a company. Regulatory

authorities will thereby avoid the futility of expending enforcement efforts on the many registrants who, although apparently terminated, have continued to maintain the required insurance in effect. Such registrants are frequently found either to have delayed their payment of premium or, in the case of reliable insureds, changed insurance companies.

> Qualified Notice of Termination: Any requirement of companies to file a notice of termination with the regulatory authorities should be qualified to affect only those cancellations or terminations that are firmed up and take place within a limited period of time following issuance of the original policy.

Undesirable - To be discouraged is any unqualified requirement of companies to file with the authorities a notice of termination in disregard of commonly encountered circumstances that render the notice unnecessary. Such unrestricted notice should not be required when an insured is possibly dilatory in the payment of premium. Neither should it be required when an insured can be sufficiently relied upon to continue in effect the insurance he is required to have.

> Unqualified Notice of Termination: A notice which is required to be filed on an unqualified basis, irrespective of whether or not the insured apparently being terminated is or will in fact be terminated. Affected by this type of notice are numerous embryonic situations which do not develop into effective terminations. Frequently involved are reliable insureds who, having kept their policies in effect with the company beyond a certain period of time, continue to remain insured without lapse of coverage. This is accomplished with either a delayed payment of premium or a change of insurance companies.
>
> Prematurity is the most undesirable aspect of an unqualified notice which is not firmed up, but instead required to be filed in advance of or immediately upon the indicated date of cancellation or termination. Such notices are very frequently invalidated by a belated payment of premium, as a result of which the policy in question is continued in force rather than terminated according to the premature notice.
>
> Invariably involved with the filing of unqualified notices of termination is not only a waste of administrative expense but also, more significantly, the subsequent enforcement efforts which result in needless harassment of the public who are insured in compliance with the law.

EVIDENCE OF MAILING

Desirable - Should the insurance companies or regulatory authorities be required to show evidence of having mailed any documents required for the administration of a compulsory insurance law, it is recommended that the procedures currently established by them be recognized on the basis of their own merits.

Certificate of Mailing: If some uniform evidence of mailing is to be required, it is recommended that this be the U.S. Postal Service Certificate of Mailing, PS Form 3817.

Undesirable - Any required change in currently established mailing procedures should be discouraged as disruptive of procedures having been tested in court and continuing to be used successfully for the purposes intended.

Certified or registered Mail: To be especially avoided because of the administrative expenses entailed is any requirement that mail be processed by certified or registered mail.

The above guidelines are not intended to be descriptive of all the ramifications that may be involved with the enforcement of a particular compulsory law. Feasible enforcement procedures depend on a variety of factors, some of which may be unique to a particular state. To be considered in any event, however, are not only the resources and facilities available to the regulatory authorities, but also the capability of insurance companies to comply with whatever procedures are contemplated.

Consequently, it is recommended that appropriate procedures and details involved be worked out in consultation with the IICMVA. To be of assistance in this regard, a mutually convenient meeting with representatives of the IICMVA can be arranged upon request.

To: Nick Kotering

From: Harley L. Schwend

Re: Amounts Billed & Received on Criminal C/O's @ WSSH

Form 4256 Counties — FYE 1973

State Publishing Co. Helena, Montana

	Billed	Rec'd	No. of Payments
Beaverhead	43245	62167	4
Big Horn			
Blaine	144254	144254	5
Broadwater	41071		
Carbon	18220	55250	1
Carter			
Cascade	2497014	2227552	10
Chouteau	208589	44237	1
Custer		403589	5
Daniels			
Dawson	116953	238842	6
Deer Lodge	201652	264670	4
Fallon	66953		
Fergus	334325	371569	10
Flathead	947591	398304	6
Gallatin	229317	302197	3
Garfield			
Glacier			
Golden Valley			
Granite	4281	4281	1
Hill	336570	375812	5
Jefferson	194260	219813	6
Judith Basin			
Lake	771495	370985	7
Lewis and Clark	389972	432500	11
Liberty			
Lincoln	433952	202517	6
Madison			
McCone			
Meagher			
Mineral			
Missoula	546943	400859	9
Musselshell	164566	104132	3
Park	178297	106986	2
Petroleum			

Phillips			
Pondera	384612	294377	4
Powder River			
Powell	81900	36800	1
Prairie			
Ravalli	250787	184005	7
Richland			
Roosevelt	240673	47724	1
[illegible]			
Sanders	34392	34392	1
Sheridan			
Silver Bow	995284	734814	9
Stillwater		173825	1
Sweet Grass			
Teton	9516	9516	1
Toole			
Treasure	8225	46882	1
Valley	312797	136240	4
Wheatland	4611	8380	1
Wibaux			
Yellowstone	822165	553775	12
TOTAL	11114482	8991246	148

re. SB 250 (Ex. 1)

BOARD OF CRIME CONTROL

1336 Helena Avenue
HELENA, MONTANA 59601
Telephone No. 449-3604

February 2, 1977

In reply refer to

To: 1977 Legislature

Subject: Summary - explanation - alternatives. SB 250 revising representation on the board of crime control; clarifying rulemaking functions, etc., amending 82A-1207

SUMMARY OF PROPOSED REVISION:

(1) To eliminate conflict between state and federal statutes in regard to the composition of the supervisory board.

(2) To clarify ambiguities as to the authority of the board.

EXPLANATION OF PROPOSED REVISIONS BY SECTION:

Subsection (2), column 1, lines 20-22. Deletes words "section" and "of this act" to conform to standard bill-drafting form.

Subsection (3), column 1, lines 23-25, and column 2, lines 1 through 11. Deletes a specific number of members of the board, but continues reference to method of appointment as a "quasi-judicial" board under 82A-1112 (see deleted subsection (6), and substitutes current federal statutory language describing representational requirements. In effect, the deletion of a numerical requirement for the board would result in an increase from 16 members to 18, 19, or 20. This is because recent amendments to Title I of the Omnibus Crime Control Act require that the board membership, in our state, include "the judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State and a local trial court officer." (P.L. 94-503, sec. 203(a)(2), 42 USC 3723). One or more additional judicial members may be required by LEAA rules authorized by another amended section.

SUGGESTED ALTERNATIVE AMENDMENT

If it seems preferable to limit the board to a particular number of members, we would recommend a committee amendment to subsection (3), column 1, line 23, to substitute "no more than 20" for "sixteen (16)."

Lines 3 through 11 of column 2 represent a substitution of current Title I compositional requirements of a supervisory board of a state planning agency for former Title I requirements, and seeks to care for future changes by reference to any specific requirements that may be established by LEAA rule, or by amendment to Title I.

SUGGESTED ALTERNATIVE AMENDMENT

In order to obviate any need for future amendment to 82A-1207 in regard to board composition, it might be desirable to strike all the language of subsection (3) beginning with column 1, line 24, and substitute "appointed by the governor in accordance with 82A-112 and with the representational requirements of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, or as it may be amended."

Subsection (4), column 2, lines 15-19. Grants express powers to the board to make rules and to hear contested cases relating to its functions assigned by federal law. Presently, 82A-1207 delegates such express authority only in the area of establishing minimum standards for peace officers standards and training. Current provisions of the Administrative Procedures Act are ambiguous as to implied rulemaking and quasi-judicial authority for agencies such as the board of crime control. In the past the board has promulgated some procedural rules (now outdated), and the board or its committees have adopted some "policies" related to procedures and to eligibility of prospective subgrantees. This amendment is suggested

In order to present an opportunity to the legislature expressly to grant or to limit rulemaking and quasi-judicial functions to the board. The board would assume that a rejection of the proposed amendment would signify the intention of the legislature to deny substantive rulemaking and quasi-judicial authority in areas other than peace officers' standards and training. On the other hand, if the grant of authority is explicit, the board would revise its current rules and would formulate its policies into rules, with proper notice and opportunity for hearing.

Subsection (4), column 2, lines 20 - 24. Adds language defining "peace officer" for purposes of establishing minimum standards for peace officers' employment and training. The definition is one proposed for purposes of clarification by the Advisory Council on Peace Officers' Standards and Training. It excludes certain personnel of regulatory agencies who are statutorily defined as "peace officers" for purposes of enforcement of regulatory or administrative laws or rules.

SUGGESTED COMMITTEE AMENDMENT TO SUBSECTION (4), COLUMN 3, TO FOLLOW LINE 6.

After the proposed revisions were drafted, a potential statutory conflict was discovered between 82A-1207 and 1693705. The latter section also deals with the authority of the board to establish minimum qualifications for employment of peace officers (in this case, deputy sheriffs, marshalls, and policemen). At the same time, it establishes minimum employment qualifications for deputy sheriffs in subsection (2). For purposes of clarification, we suggest the following addition to follow line 6:

Minimum standards established by the board for the employment and training of peace officers are in addition to any minimum standards prescribed by law.

Subsection (5) in the current statute was a transitional provision at the time of executive reorganization and is no longer needed.

Subsection (6) is struck because the substance of the provision is incorporated in subsection (3) as it is proposed to be amended.

FISCAL IMPACT

Should the legislature see fit to permit an increase in board membership, it is estimated that costs associated with each member added could approximate $4,000 for travel, per diem, and additional operating expenses for each year of the biennium. If new members reside in Helena (as would be the case with the chief justice and the court administrator), obviously the costs would be much less.

No significant additional costs of operation are anticipated if clear rulemaking and quasi-judicial authority are granted.

Ninety per cent of any additional costs in either area would be borne by federal funds.

PART A--LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

42 USC 3711

SUPERVISION BY ATTORNEY GENERAL

SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority, policy direction, and general control of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance and two Deputy Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Administrator shall be the head of the agency. One Deputy Administrator shall be designated the Deputy Administrator for Policy Development. The second Deputy Administrator shall be designated the Deputy Administrator for Administration.

Office of Community Anti-Crime Programs. Establishment.

(c) There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the 'Office'). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizen participation in law enforcement and criminal justice activities; and

(3) provide information on successful programs of citizen and community participation to citizen and community groups.

PART B—PLANNING GRANTS

42 USC 3721

SEC. 201. It is the purpose of this part to provide financial and technical aid and assistance to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems of law enforcement and criminal justice.

State planning agencies.

SEC. 202. The Administration shall make grants to the States for the establishment and operation of State law enforcement and criminal justice planning agencies (hereinafter referred to in this title as 'State planning agencies') for the preparation, development, and revision of the State plans required under section 303 of this title. Any State may make application to the Administration for such grants within six months of the date of enactment of this Act.

42 USC 3723

SEC. 203. (a) Any grant made under this part to a State shall be conditioned upon the establishment and maintenance of a State planning agency. Such agency shall be created or designated by the chief executive of the State by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1973. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

(a) The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members, shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials. State planning agencies which choose to establish regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

Functions.

(b) The State planning agency shall--

(1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice;

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State; and

(4) assure the participation of citizens and community organizations at all levels of the planning process.

Judicial planning committee.

(c) The court of last resort of each State or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts, and shall include a majority of court officials (including judges, court administrators, prosecutors, and public defenders).

(d) The judicial planning committee shall—

(1) establish priorities for the improvement of the courts of the State;

(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

(3) develop, in accordance with part C, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan.

tions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

SEC. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

SEC. 515. (a) Subject to the general authority of the Attorney General and under the direction of the Administrator, the Administration shall— 42 USC 3763

(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in that comprehensive plan;

(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs; and

(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

(b) The Administration is also authorized—

(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

(c) Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.

year at least, and in the county where such appointment is made for the period of at least six (6) months prior to the date of said appointment; provided, that the provisions of this section shall not apply in cases of such officers summoning a posse forthwith to quell public disturbance or domestic violence.

(2) No sheriff of a first, second and third class county shall employ as a deputy any individual who does not possess all the following qualifications:

(a) graduate of an accredited high school or the equivalent thereof;

(b) good moral character;

(c) never been convicted of a felony;

(d) has not within five (5) years immediately preceding his date of employment been affiliated in any manner with a subversive organization;

(e) been examined by a physician licensed to practice in the state of Montana within thirty (30) days immediately preceding his date of employment and has been pronounced in good physical condition.

Subsection (2) of this section shall not be applicable to any deputy sheriff of a first, second or third class county whose term of employment commenced prior to the effective date of this act.

(3) Any person whose term of employment as a deputy sheriff of a first, second or third class county commences subsequent to the effective date of this act shall serve a one-year probationary period and that during this one-year period the employment of any such deputy may be terminated by the sheriff with or without cause and without recourse to the sheriff under the terms of this act.

(4) It shall be the duty of the sheriff of a first, second or third class county to cause all deputies whose term of employment commenced subsequent to the effective date of this act to attend that academy provided for by chapter 52, Title 75, R. C. M. 1947, except that the sheriff may accept reasonable delays in attendance at the academy as shown by the deputy's declared intention of attending. Failure to satisfactorily complete the course offered by said academy shall be deemed cause to terminate a deputy's employment.

(5) Any deputy sheriff of a first, second or third class county now employed or that may hereafter be employed shall continue in service until relieved of his employment in the manner hereinafter provided and only for one or more of the following specified causes:

(a) conviction of a felony subsequent to the commencement of such employment;

(b) willful disobedience of an order or orders given by the sheriff;

(c) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;

(d) sleeping while on duty;

(e) incapacity materially affecting ability to perform official duties;

(f) gross inefficiency in the performance of official duties;

(g) participation in any political campaign as a candidate or the solicitation of political support for any candidate for public office.

NAME: Nancy Lien DATE: 2/2/77

ADDRESS: 1218 E. 6th ave

PHONE: 449-3878

REPRESENTING WHOM? Mental Health Advisory Council

APPEARING ON WHICH PROPOSAL: SB 153

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: support evaluation costs being borne by the county to encourage evaluations at community mental health facilities. Testimony consisted of the text of Recommendation #47 in the report of the Mental Health advisory council.

which is at least equal to the proof of financial security required of other owners of self-propelled motor vehicles registered in this state.

Conflicting laws.

Existing laws which are inconsistent with the provisions of this article are repealed to the extent of their inconsistency.

COMMITTEE ON Judiciary BILL NO. S.B. 153 + 250

VISITOR'S REGISTER Note Bill No

NAME	REPRESENTING	Check One Support	Check One Oppos
[illegible] G GRIFFING	BOARD OF CRIME CONTROL	SB250	
Joan Uda	Office of Budget + Program Planning		SB153
NICK ROTERING	DEPT. OF INSTITUTIONS		SB 153
Nancy Lien	Mental Health Advisory Council		SB 153
[illegible]	Mental Health Assn of Mt.		
Tom Hazel	County Attorneys	SB153	
[illegible] Shafer	Correspondent 9 NYS. Nugget		
[illegible]	interested spectator		
[illegible]	interested taxpayer		
Joyce DeCenzo	Mental Health Advisory Council		SB153
[illegible]	Mt. Assn of Co's.	SB153	

STANDING COMMITTEE REPORT

February 2, 19 77

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 250

Respectfully report as follows: That SENATE Bill No. 250,
the introduced bill, be amended as follows:

1. Amend Title, lines 6 and 7.
Following: "CLARIFYING THE"
Strike: "RULEMAKING AND QUASI-JUDICIAL"

2. Amend page 2, section 1, subsection (4), lines 15 through 18, and 19.
Following: "act."
Strike: "It may make any necessary rules and hear and decide contested cases in performing its functions assigned by law and in keeping with the requirements of the Montana Administrative Procedure Act."

3. Amend page 2, section 1, subsection (4), line 23.
Following: "or"
Insert: "fish and"

AND AS SO AMENDED, DO PASS.

~~DO PASS~~

Chairman.

STATE PUB. CO.