

MINUTES OF THE JUDICIARY COMMITTEE
January 24, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 8:00 a.m. in Room 224A of the Capitol. All members were present. Brenda Desmond, Legislative Council, was also present.

HOUSE BILL 246

REP. MUELLER, sponsor, stated House Bill 246 would provide for staggered terms for members of the Board of Pardons. The sponsor noted that every member of the subcommittee of the Task Force on Corrections signed the bill. The Task Force felt there is a need for continuity on the Board. A number of people on the Board are familiar with the law and have the same ideas. TOM KEEGAN was recently appointed to the Board. His term will expire in 1985.

Under House Bill 246, the terms of the members would be staggered. Terms for the various members would expire in 1986, 1987, 1988, and 1989.

There were no additional proponents.

MONA JAMISON, Governor's Office, was opposed to the bill. Originally, the Governor's Office had approved this bill. When it was in final form, however, the Office felt there were some points that should be raised. The Governor has introduced a bill that would allow the Governor to make appointments to the Board, upon his assumption of office, and the appointees would assume office immediately rather than at the end of the legislative session. The Board of Pardons is a quasi-judicial board under Section 21-5-124. Appointees can take office upon appointment and qualification. The qualification of an appointee is his confirmation by the Legislature. The incumbents hold the position until the appointee is confirmed.

JAMISON stated the Governor's bill will be heard in the State Administration Committee. This bill states that if an appointment expires January 3 and a new Governor appoints a new person to fill that position, that person can take office right away. This would benefit any new Governor regardless of party. House Bill 246, however, runs in conflict with the Governor's bill. Under House Bill 246, in 1985 three people whose terms expire each have a staggered term. It will take three years for the new Governor to have his people on the Board.

Judiciary Committee
January 24, 1983
Page 2

JAMISON stated the Board of Pardons is a hard working board. However, the next governor would have to work with this Board until their terms expire under this bill.

JAMISON stated the Board of Pardons has a difficult job. Section 2-15-214, however, provides continuity. One member shall always be appointed during the middle of the Governor's term.

There were no further opponents.

REP. MUELLER, in closing, stated the purpose of the bill is to provide continuity and credibility. Any new governor is responsible and will put his people on the board that will do a good job. The sponsor understands the governor's desire to have a number of his people on the board right away. He felt, however, under this bill in no time at all the governor will have a working majority. A board such as the Board of Pardons needs to be as nonpolitical as possible. Maintaining continuity this would increase its credibility. He emphasized that the members of the Corrections Task Force were in favor of the bill.

HANK BURGESS, a member of the Board of Pardons, was in favor of the bill, but was not able to attend the hearing.

REP. ADDY asked if the goal of continuity could be reached if two of the permanent members were appointed at the beginning of the gubernatorial term and if one member was appointed at mid-term.

JAMISON responded there are three members and one alternate on the board. If a member cannot attend, the alternate attends in his place. The alternate attends nearly every meeting in the place of one of the members. If the members were appointed as REP. ADDY indicated, it would diminish the governor's control. Other boards appointed by the Governor also do important work, therefore, the importance of continuity applies to all the boards. The Governor does not have very many appointments to make.

REP. KEYSER asked how the Board of Pardons can be compared to the other boards when the Board of Pardons alone deals with human lives. JAMISON replied the Board of Pardons has the greatest workload and stress factor. Although the other Boards do play important function, the Board of Pardons must follow the correctional policy set by the Governor. Therefore, the Board of Pardons has more responsibility. JAMISON

Judiciary Committee
January 24, 1983
Page 3

stated the Governor's office did not have amendments towards the bill; rather, they are opposed to its passage as they prefer the language in House Bill 215.

The hearing on House Bill 246 closed.

HOUSE BILL 191

REP. RAMIREZ, sponsor, stated House Bill 191 provides that the division of property in a proceeding for dissolution of a marriage is considered to be a division of common ownership interests of the parties.

JIM ST. CLAIRE, was a proponent of the bill. The purpose of the bill is to put Montana on a par with other community property states in the tax area. In community property states the tax consequences of division of property in a divorce are minimal. In Montana, however, there are tax ramifications. In 1952, for example, mom and dad get married. Mom's parents sell them a farm worth much more than \$10,000 for \$10,000 as a wedding present. In 1982, dad divorces mom and remarries. The court decrees mom has to sell her interest in the farm. The farm is now worth \$200,000. As a result of that decree, mom receives \$100,000 from dad, and dad gets the farm. Mom must pay capital gains tax. If we were a community property state, she would not be taxed on the division of property. This bill states at the time of decree both mom and dad have equal interest in the property regardless of how the title was acquired. Four other states have laws similar to this.

STACY FLAHERTY, Women's Lobbyist Fund, was in favor of the bill. FLAHERTY read her testimony from EXHIBIT A.

There were no further proponents.

There were no opponents.

In closing REP. RAMIREZ stated it is unfair for the people of Montana to have to be subjected to tax on a sale that is ordered by the court in a dissolution proceeding. In community property states, division of property in a divorce is not a taxable event. Four non-community property states have tried to deal with this situation by means of laws similar to this bill.

Judiciary Committee
January 24, 1983
Page 4

REP. HANNAH asked if the bill passes and the same situation as in the example arises, would there be an interference with tax revenues. RAMIREZ replied the state and the federal government will still obtain their share of the money. It is a question of when the taxable event occurs. At the death of the owner or sale of property by the owner the state and federal government will obtain taxes on the gain. Under this bill the division of property would not be considered a sale for tax purposes.

REP. HANNAH asked if in the example dad remarries and sells the farm ten years from now; who would pay the capital gains tax. It was replied dad would. The settlement of the original divorce decree would then reduce the amount of the gain though.

The hearing on House Bill 191 closed.

HOUSE BILL 210

REP. PISTORIA, sponsor, stated House Bill 210 would require presentation of a valid insurance card for registration of a motor vehicle and suspension of driver's license for certain offenses. In the 1979 session, this bill was made into law. In 1981, the legislature changed the law so that now in order to register a vehicle it is necessary only to swear that you have insurance, it is not necessary to prove it. REP. PISTORIA gave the committee EXHIBIT B, a copy of the current Montana Owner's Certificate of Registration and Tax Receipt. He noted applicants are not always telling the truth when they certify under oath that the vehicle is insured. This bill would require showing a valid insurance card to the County Treasurer before being permitted to register a vehicle.

The sponsor stated the bill is patterned after current Idaho law.

The penalty in this bill for not having valid insurance is the suspension for one year of the driver's license or non-resident operating privileges of the person convicted or until such person gives and thereafter maintains with the division for one year proof of financial responsibility.

JOHN THOMPSON was in favor of the bill. When Montana originally had a mandatory insurance law, it created some conflict with the County Treasurers. Some of the treasurers would accept just about anything as proof of insurance. THOMPSON feels the bill will simplify the matter for the treasurers.

Insurance companies in Montana are aware they must issue a card of some kind. Most insurance companies issue cards when they issue policies. People now show the card on request to officers of the law. THOMPSON also stated, however, these cards can be forged. This bill requires the applicant to show mandatory proof. He would like the bill amended so that a fine is mandatory. In two months in the Helena area 23 people were convicted for driving uninsured vehicles. The fine imposed was only \$50.00. THOMPSON felt the \$50.00 fine was a "slap in the face" to drivers who are insured. Driving is a privilege and not a right. Under the present law a fine of \$250 can be charged. If a one year suspension of driving privileges were imposed people might realize the importance of the mandatory insurance law. Many people say they are insured but in fact are not.

LARRY MAJERUS, Montana Vehicle Division, was in favor of the bill. The first major change in the bill is the requirement that it be proved to the County Treasurer that an individual has insurance. It would be very cumbersome for individuals to contact the Department if they cancel insurance with a particular company. When the sponsor came to the Department to ask what could be done, the department suggested this provision which would require any one convicted to post insurance with the department for one year. Any driver whose license is revoked for any reason must show proof of insurance for three years. A form is filled out by the insurance companies in Montana and is sent to the Department whenever a person has cancelled or has not paid his premium. Individuals do not know or see the form. It is strictly between the insurance companies and the Motor Vehicle Department. If the applicant wishes to change insurance companies, that is fine with the Department. The Department suspends approximately 4,000 drivers licenses annually for failure to carry insurance.

There were no further proponents.

CHARLES GRAVELY, representing the County Treasurers, was opposed to the bill. He was opposed to an applicant displaying a valid insurance card. This provision was tried previously. The intent is good but it is unenforceable. An individual can purchase a policy, obtain a license, and then drop the policy. The card and the license are still valid. GRAVELY felt this is a law enforcement problem. If every individual that is stopped is required to show his insurance card to the officer, this problem could be eliminated. GRAVELY realizes when there is an accident, the

officer often has more important details to attend to than that the insurance card. If the violator, however, is stopped for a minor violation, the officer should ask for proof the same time he asks for the driver's license and registration. Penalties should be so severe that an individual will not drive without insurance. Proving to the County Treasurer that an individual has insurance, however, is a problem. The employees of the Treasurer's office must deal with the applicants on a day-to-day basis. Requiring a valid card would make the people unhappy and possibly be unkind to the Treasurer's employees.

There were no further opponents.

GERALD RAUNIG, Montana Auto Dealers, stated he was neither a proponent nor opponent. He felt that the bill should be amended on page 2, line 25 "except vehicles lawfully displaying dealer plates". RAUNIG stated this is because the car dealers have so many cars on the lots that it is hard to make sure there is a card in each car. The cars are insured though and the dealer ordinarily has the insurance proof in his office.

REP. PISTORIA agreed with RAUNIG. In response to GRAVELY's opposition to the increased work for the County Treasurer's Office, PISTORIA said that the public elected the County Treasurer, therefore the treasurer should do the work the public specifies.

REP. CURTISS asked what the shortest time an insurance policy can run for. THOMPSON replied there are policies for 3, 6, 9, and 12 months. It is possible to obtain a three month policy for registration purposes then to let it lapse after that time period. REP. CURTISS noted the bill indicates proof of insurance for the entire year is required. Many times is it impossible for an applicant to pay a full year's premium. It was replied the insurance companies file on a given date that you have paid for a certain time frame. It would not be necessary to pay the entire year's premium. Some companies do require a full year payment, however.

ROGER MCGLENN stated most insurance companies provide six month policies. Some, however, do write one month policies. The insurance companies would issue a form to the Department of Vehicles that the insurance is paid. If the premium is not paid and the insurance lapses another form is filed with the Motor Vehicles Department.

Judiciary Committee
January 24, 1983
Page 7

GRAVELY stated that a policy of registering a vehicle for the term of the insurance only would not be workable. It is not possible to have expiration dates for license plates for less than one year.

REP. SPAETH asked about "financial responsibility". It was replied the purpose of the bill was to provide for a suspension of a drivers license if insurance was not carried.

GRAVELY stated it was possible to have a valid insurance card without paying the premium. Many of the insurance companies send a card with the premium at the time of renewal. GRAVELY also stated when the bill was first passed, he sent notice to the sheriff and police department informing them it was mandatory that drivers have proof of insurance. From that date on, tickets have been issued for failure to comply. On a statewide basis, however, not all law enforcement officials request to see the proof.

REP. VELEBER asked about the increase of penalties. The sponsor replied the bill as originally drafted had a fine of up to \$500 and was considered a misdemeanor. The Senate, however, in 1981 deleted the fine. The sponsor decided to leave it up to the committee's judgement.

REP. KEYSER asked how many registered drivers there are in the state presently. MAJENUS replied approximately 500,000. He stated a driver is notified by the department if the insurance company files a form stating the insurance has lapsed.

The hearing on House Bill 210 closed.

HOUSE BILL 257

REP. RAMIREZ, sponsor, stated this bill would adopt the American Bar Association's Model Act on professional corporations and replace and repeal the present laws regulating professional corporations. In 1981 Montana adopted the ABA model corporations act. This bill is a supplement to that act. It will resolve problems that have arisen because of differences between the ABA Corporations Act and the Montana professional corporation law.

ALAN ROBERTSON, Secretary of State, supported the bill. He felt the bill is more comprehensive than present law. In

1981 Senate Bill 475 was passed. It was an update of the Model Business Corporation Act. This made Montana law the most up-to-date law in the country. Senate Bill 161 in 1981 enacted the Uniform Limited Partner Act.

The implementation of this bill goes beyond the Secretary of State's office. Most of the law concerning corporations is under Title 35. Different chapters deal with the different types of corporations. Chapter 4, Professional Service Corporations, is linked with Chapter 1, Business Corporations. The general laws are not in conflict. The two ABA Acts are designed to work together. When one of the Acts, the business corporation act, was enacted however, the other, the professional corporations, act was not. Therefore, there is some conflict between the two chapters as they now exist.

EXHIBIT C, a letter concerning an out-of-state doctor who is not qualified under Montana law to do business in the state, was submitted. ROBERTSON stated there is no mechanism for a foreign professional corporation to do business in Montana. This is difficult taxwise. This problem is similar to partnerships that existed prior to a law passed in 1981. The only organization provided for then was professional partnerships.

The next problem of the current law concerns the definition of professional service. Without the expression of "specified" it is impossible to impose what the definition is. It is not clear if the professions listed under the definition are the only ones covered by the act or if that is just a partial listing. This bill includes a clear definition of what a professional service is.

The corporation's name is another problem. There are no present requirements about the words that must to be included in a business's name. A professional corporation would have to include in its name either the initials P.C. or the words professional corporation.

Another current problem concerns doctors who are the sole owner of the shares of the corporation. Title 35, chapter one, corporations, requires that each corporation have two officers--a president and a secretary--and that they may not be the same individual. Chapter 4, however, states no person can have an interest in a professional corporation if he is not a licensed professional. This, therefore, eliminates the possibility of having a spouse or employee as the other officer of

Judiciary Committee
January 24, 1983
Page 9

the corporation. This bill takes care of that problem by not requiring the officers of a professional corporation to be a licensed professional; and thus, gives more flexibility.

Present law requires that all members of a professional corporation have the same occupation. In other states architects and engineers are allowed to form a professional corporation together as are doctors and other medical professionals. This bill would allow merging. A doctor and an attorney, however, would be unable to merge because of their ethical standards. If they did, it would be cause for them to lose their licenses.

This bill also gives the state more authority in licensing.

The bill also expands the ability to continue operating if a partner dies. Under current law if a sole practitioner dies the corporation had to be dissolved. This bill would allow a personal representative to file amendments to make it a business corporation. A licensed professional would serve as the business was being liquidated.

Four amendments were given to the committee. EXHIBITS D through F.

SONNY HANSON, Montana Technical Council, supported the bill because section 6 would allow a variety of specialists to be incorporated together.

There were no further proponents.

There were no opponents.

REP. JENSEN asked if this would prohibit a physician who is also a lawyer to incorporate. It was replied he would have to decide which profession he would want to practice under, or inquire as to whether the Supreme Court and the Medical Board would allow him to practice as both.

REP. ADDY asked if the purpose of incorporation was to gain tax advantages and to limit liability. It was replied yes. When a company is incorporated a person who is suing may only sue the company and not the individual.

REP. RAMIREZ noted that sections 24 and 25 could be deleted from the bill as they were not appropriate for Montana. They were in the Model Act and that is why they were included in this bill.

Judiciary Committee
January 24, 1983
Page 10

The hearing on the bill ended.

HOUSE BILL 211

REP. JAN BROWN, sponsor, stated this bill will relate the compensation benefits paid to victims of crime to the average weekly wage as determined for purposes of workers' compensation. Section 39-171-16 defines wage.

LARRY LEWIS, Workers' Compensation Division, was in favor of the bill. LEWIS read from EXHIBIT G.

CATHY CAMPBELL, Montana Association Churches, was also in favor of the bill. CAMPBELL read testimony from EXHIBIT H.

There were no further proponents.

There were no opponents.

In closing, REP. J. BROWN stated that the fiscal note indicates the long range effect of this bill is that benefits be paid to victims of crime will increase to the state average weekly wage depending upon revenues collected.

REP. HANNAH asked how the average wage is determined. It was replied the Department of Labor computes the average wage.

REP. EUDAILY asked how often the determination of the average weekly wage is made. LEWIS replied it is made annually before the beginning of the fiscal year.

REP. VELEBER questioned the reasonable funeral and burial expenses that under the bill would be set by rule of the division. It was replied the Division would pay the going rate for burial expenses.

REP. EUDAILY asked about the subsection 6 which does not pay benefits for pain and suffering, inconvenience, physical impairment or nonbodily damage. It was replied the Division will pay medical payments for someone who is injured or damaged however the exclusions are present law.

In 1977 the maximum weekly benefit was set at \$125. An individual now will get \$125 or 66 2/3 of his wages whichever is smaller.

The hearing on the bill closed.

Judiciary Committee
January 24, 1983
Page 11

HOUSE BILL 347

REP. DONALDSON, sponsor, stated this bill would revise the small tract financing act of Montana by increasing the limit on trustees' and attorneys' fees and deleting unnecessary recording language.

The limit charged is increased from \$150 to \$250. This charge has not been amended since the mid-1960's.

JOHN BARKEMEYER, Helena Abstract & Title Company, supported the bill. He stated the laws must offer reasonable protection to the parties. EXHIBIT I.

JOHN CADBY, Montana Bankers Association, also supported the bill. The real estate community has considered the problem the bill addresses. CADBY felt that instead of amending the law to \$250, it should be amended to permit a fee of up to 3% of the amount due on the obligation, both principal and interest at the time of default. EXHIBIT J. The costs that are incurred for the attorney are the same whether or not the sale goes through.

DAVID BROWN, First Bank of Helena, also supported the bill. This law has not been amended within the last 25 years. Originally, the law was for only three acres. The law now covers parcels up to 15 acres. The \$150 fee covers all circumstances whether there is one acre or 15.

In Billings in 1979 a fee of \$3,400 was charged for the foreclosure of a subdivision. In Great Falls there have been many foreclosures. The law allows the trustee 120 days to bring the payment current.

BROWN agreed that a percentage would be appropriate instead of an exact fee.

WILLIAM GOWEN, Helena Abstract & Title Company, was also in favor of the bill. The title associations around the state are in favor of the bill proposed.

There were no further proponents.

There were no opponents.

REP. KEYSER asked the time period that comes under the Small Tract Financing Act. BROWN replied two weeks are required for legal notice and for what is covered by the act. REP.

Judiciary Committee
January 24, 1983
Page 12

KEYSER asked about the proposed amendment of 3%. REP. DONALDSON had no objection.

The hearing on the bill ended.

EXECUTIVE SESSION

HOUSE BILL 347

REP. IVERSON moved DO PASS, seconded by REP. JENSEN. REP. IVERSON moved the amendment of "3% of the amount due on the obligation, both principal and interest at the time of default" be inserted, and to strike the figure \$250. REP. SEIFERT seconded the motion.

REP. ADDY noted he has a conflict of interest as his practice has dealt in this area. REP. RAMIREZ replied the bill does not have anything to do with the fee REP. ADDY has collected it only applies to the portion of the fee that can be recovered from the owner. REP. RAMIREZ further stated that it is not a conflict to vote on matters affecting a legislator's compensation. If it was, many of the Representatives who are farmers could not vote on the agricultural bills.

All were in favor of the amendment, except REP. HANNAH.

REP. KEYSER moved DO PASS AS AMENDED, seconded by REP. JENSEN.

REP. HANNAH felt the fee charged would be a substantial increase. REP. RAMIREZ replied the borrower has defaulted before this bill ever comes into play. An attorney's fee must be reasonable. A court will look at the number of hours in handling the case.

REP. ADDY noted the 3% is the maximum amount and not the minimum amount the attorney can charge.

The motion of DO PASS AS AMENDED passed with REP. HANNAH voting no.

HOUSE BILL 211

REP. J. BROWN moved DO PASS, seconded by REP. JENSEN. It was asked if a statement of intent was required. CHAIRMAN BROWN replied one is not required but will be made if the committee so requests.

REP. HANNAH asked about the \$125. It was replied that either 66 2/3% of the wage earned or \$125 a week would be given.

The amount, however, is not to exceed \$125. The average weekly wage now is \$263. REP. HANNAH felt we were giving the Department total discretion as to how much money would be paid.

REP. RAMIREZ felt the fund should pay out the money to the people. If there is additional funds at the end of the year, an additional benefit should be paid to the people.

REP. BERGENE stated the bill, if passed, does not talk about the general fund. She felt the money would stay in the fund and be invested rather than being referred back. REP. HANNAH agreed stating there is considerable pressure on the amount of money in the fund.

REP. ADDY did see the value in the legislation. He felt it is a statement of how the state is concerned. If the amount was limited to \$125 a week it shows that the state is not concerned. He felt it should fluctuate with the size of the fund. The assets of the perpetrator should be looked at.

CHAIRMAN BROWN stated the bill does not state that the funds not used would go back to the general fund.

REP. RAMIREZ stated it is a question of whether the funds will be made available. If the state cannot pay a certain amount to pay claims then the state should not adopt a policy that are not well be paid. The maximum amount that can be paid should be set and if there is any money left over an extra benefit should be paid at the end of the year.

CHAIRMAN BROWN disagreed. The maximum amount payable can be increased without running into the type of difficulty that REP. RAMIREZ is concerned about.

REP. SPAETH stated more money comes into the fund each year as compared to the amount going out as benefits.

REP. RAMIREZ stated the fiscal note does not indicate what these changes really mean. If the state did have a liability to the maximum, what would that be in dollars? How much would it cost with the same benefits and claims if we raised the benefit amount to the amount shown in the bill?

REP. RAMIREZ made a substitute motion to hold the bill until another fiscal note can be obtained. He felt the legislature was setting the policy for certain compensation that is not reasonable. It is possible someone could argue that the policy requires that the maximum allowable amount be paid.

Judiciary Committee
January 24, 1983
Page 14

REP. ADDY stated knowing that information does not change his vote. All the money is paid to the claimants that year. Highway fines as provided in Section 53-9-109, fund the account. Perhaps the percentage of highway fines should be increased from 18% to 25%.

REP. EUDAILY stated the money that use not used would still be in the fund. It would give the department the right to project the money. There is no guarantee all the money will be used.

A roll call vote was taken on the motion to hold the bill. Those voting yes were: CURTISS, HANNAH, IVERSON, KEYSER, RAMIREZ, AND SEIFERT. Those voting no were: D. BROWN, ADDY, BERGENE, J. BROWN, DARKO, FARRIS, JENSEN, KENNERLY, SCHYE, SPAETH, AND VELEBER. The motion failed 11 to 7.

REP. J. BROWN moved DO PASS.

REP. BROWN moved to strike the new language on page 3, lines 4 and 5 and to insert \$1,500. REP. SEIFERT seconded the motion. All were in favor.

REP. ADDY moved DO PASS AS AMENDED, seconded by REP. J. BROWN. A roll call vote resulted on the motion. Those voting in favor of the motion were: D. BROWN, ADDY, BERGENE, J. BROWN, CURTISS, DAILY, DARKO, FARRIS, HANNAH, IVERSON, JENSEN, KENNERLY, KEYSER, SCHYE, SPAETH, and VELEBER. Those voting no were: SEIFERT, RAMIREZ and EUDAILY. House Bill 211 left the committee as DO PASS AS AMENDED.

The meeting adjourned at 11:30 a.m.



DAVE BROWN, Chairman



Maureen K. Richardson
Maureen Richardson, Secretary

STANDING COMMITTEE REPORT

January 24,

83

19

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration

HOUSE Bill No. **347**

First reading copy (**White**)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SMALL TRACT
FINANCING ACT OF MONTANA BY INCREASING THE LIMIT ON TRUSTEES'
AND ATTORNEYS' FEES AND DELETING UNNECESSARY RECORDING LANGUAGE;
AMENDING SECTIONS 71-1-313 AND 71-1-320, MCA.***

Respectfully report as follows: That..... **HOUSE** Bill No. **347**

BE AMENDED AS FOLLOWS:

1. Page 4, line 15.

Following: "§150"

Strike: "§250"

Insert: "3% of the amount due on the obligation, both principal
and interest at the time of default"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

January 24,

83

19

SPEAKER:

MR.

JUDICIARY

We, your committee on

having had under consideration

HOUSE 211

Bill No.

First reading copy (white)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT RELATING THE COMPENSATION
BENEFITS PAID TO VICTIMS OF CRIME TO THE AVERAGE WEEKLY WAGE AS
DETERMINED FOR PURPOSES OF WORKERS' COMPENSATION; AMENDING SECTION
53-9-128, MCA."**

Respectfully report as follows: That.....

HOUSE 211

Bill No.

BE AMENDED AS FOLLOWS:

1. Page 3, line 4 through line 5.

Following: \$17100

Strike: "an amount to be set by rule of the division"

Insert: \$1,500

AND AS AMENDED

DO PASS

DAVE BROWN,

Chairman.

ROLL CALL VOTE

JUDICIAL

COMMITTEE

	Date:	Date:	Date:
	No:	No:	No:
Hold Bill	HB 211	HB 211	
Amended	Do Pass As		
BROWN, Dave	NO	YES	
ADDY, Kelly	NO	YES	
BERGENE, Toni	NO	YES	
BROWN, Jan	NO	YES	
CURTISS, Aubyn	YES	YES	
DAILY, Fritz	-	YES	
DARKO, Paula	NO	YES	
EUDAILY, Ralph	YES	NO	
FARRIS, Carol	NO	YES	
HANNAH, Tom	YES	YES	
IVERSON, Dennis	YES	YES	
JENSEN, James	NO	YES	
KENNERLY, Roland	NO	YES	
KEYSER, Kerry	YES	YES	
RAMIREZ, Jack	YES	NO	
SCHYE, Ted	NO	YES	
SEIFERT, Carl	YES	NO	
SPAETH, Gary	NO	YES	
VELEBER, Dennis	NO	YES	

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



Exhibit A
HB 191
1/24/83

TESTIMONY OF STACY A. FLAHERTY, WOMEN'S LOBBYIST FUND, ON JANUARY 24, 1983,
BEFORE THE HOUSE JUDICIARY COMMITTEE REGARDING HOUSE BILL 191.

The Women's Lobbyist Fund, a coalition of women's groups in Montana,
endorses House Bill 191.

Under current law, Montana is an equitable distribution state for purposes of divorce proceedings. A Court equitably apportions between the parties involved the property and assets belonging to either or both parties. The law also recognizes the non-wage earning contributions of a homemaker and instructs the Court to consider the health, age, occupation, amount and sources of income, employability, etc. of each party. Property transferred in divorce proceedings may be taxable under the current law.

House Bill 191 further strengthens the equitable nature of the existing law by removing the tax consequences resulting from transfers of property in divorce proceedings.

The Women's Lobbyist Fund believes this bill is fair and just to both parties involved in divorce proceedings. We encourage the committee to pass HB 191.

CARBONS ARE GLUED TO THIS MARGIN. TO
DETACH GRASP FIRMLY AND PULL FROM RIGHT SIDE.

MONTANA OWNER'S CERTIFICATE OF REGISTRATION AND TAX RECEIPT

Current Plate	Type	Veh.Yr.	Make	Model	Style	Color	GVW/WT
---------------	------	---------	------	-------	-------	-------	--------

EXPIRATION DATE	Vehicle Ident./Motor No.		Title Number			
-----------------	--------------------------	--	--------------	--	--	--

Tab No.	Gas (1) LPG (2) Diesel (3)	Vehicle Type	Equipment No.		Ton	
---------	----------------------------------	--------------	---------------	--	-----	--

Registered Owner's Name and Address

Lienholder's Name and Address			Lien Amount	F.O.B. Price
-------------------------------	--	--	-------------	--------------

Val'd By	Market Value	Taxable Val.	School Dist. No.	Mill Levy	Co.
----------	--------------	--------------	------------------	-----------	-----

Treas. or Dep.	I CERTIFY UNDER PENALTY OF LAW THAT THIS VEHICLE IS INSURED AS PREScribed BY MONTANA STATUTE 81-8-302 MCA X					Signature of Registered Owner
----------------	---	--	--	--	--	-------------------------------

Date Issued	R.P.O. ONLY-OUT OF STATE REGISTRATION INFORMATION				
Out of State Plate	Title No.	State	Zip		

Legal Domicile					
----------------	--	--	--	--	--

REGISTRAR'S COPY

0785813

Vehicle owner must
instead DISPLAY insurance
card or slip - by H.B. 210 - by
February 12, 1983, are
not telling the truth under
oath. Several doing this.

G.V.W. FEE PERIOD

(1) ANNUAL (6) 3rd & 4th

QUARTERS (7) 1st & 2nd

ONE QTR. (8) 2nd & 3rd

(5) 2-3-4th (9) 1-2-3rd

G.V.W. CLASS

(7) TRANS. (3) 16%

(1) 100% (4) SCH. 3

(2) 75% (5) 55%

FEES PAID

Co. Tax _____

Reg. Fee _____

G.V.W. Tax _____

New Use Tax _____

Title _____

Junk Vehicle _____

RMV/F&G _____

Co. Total _____

Title _____

Lien _____

Dup Reg _____

Pers. Plate _____

TOTAL _____

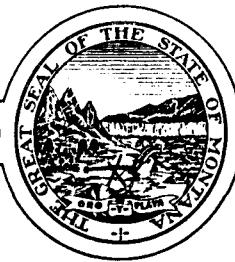
H.B. 210

Exhibit B

HB 210
1/24/83

HB 210

DEPARTMENT OF REVENUE



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

Exhibit C

1/24/83

NB 257

November 1, 1982

Alan Robertson
Chief Counsel
Secretary of State

RE: John A. Bluher

Dear Mr. Robertson:

The Department of Revenue in its dealings with Dr. John A. Bluher, DDS, MS, P.C., has discovered that the above-mentioned person is a professional corporation that is not qualified to do business in the State of Montana. Dr. Bluher is a resident of Cody, Wyoming, who maintains an office in Billings, Montana. Dr. Bluher provides services as an orthodontist one day per week in Billings, the remainder of the time he is located in Cody, Wyoming.

In his dealings with the Department of Revenue, Income Tax Division, Withholding Section, Dr. Bluher has represented himself as a "professional corporation". However, we checked with your office and discovered that Dr. Bluher, P.C., has never procured a Certificate of Authority from the Secretary of State to do business in Montana.

If you wish to take action in this matter and would like access to our files, please feel free to contact the Department of Revenue, Legal Bureau at anytime.

Sincerely,

LEGAL BUREAU

A handwritten signature in cursive ink that reads "Ann Kenny".

ANN KENNY
Paralegal Assistant

AK/br

Exhibit D

1/24/83

Amendment to H.B. 257 # 1

Proposed by the Secretary of State

HB 257

On page 15 of the Introduced Bill, after the word "involuntarily" on line 22, insert the following:

"as provided in chapter 6 of this Title."

and strike the words "by decree of" on line 22; and also strike all of lines 23, 24 and 25 on page 15; and also strike all of lines 1 through 10 on page 16 of the introduced bill.

End of Amendment

Exhibit E
NB 257
1/24/83

Amendment to H.B. 257

Proposed by the Secretary of State

On page 7 of the Introduced Bill, after the word "to" at the end of line 8, and before the word "the" at the beginning of line 9, insert the following:

"any assumed business name, limited partnership name,
trademark, or service mark registered or reserved with
the secretary of state or to"

End of Amendment

Exhibit F
HB 257
1/24/83

Amendment to H.B. 257 #3

Proposed by the Secretary of State

On page 16 of the Introduced Bill, at line 24; after the word "is":

strike the words "entitled to" and substitute in place thereof the words "required to obtain".

End of Amendment

Amendment to H.B. 257 #4

Proposed by the Secretary of State

On page 18 of the Introduced Bill, at line 7:

strike all of lines 7 through 14 and renumber the subsequent sub-paragraph.

End of Amendment

Exhibit 6

NB 211

1/24/83

Bill No. _____

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING COMPENSATION BENEFITS TO VICTIMS OF CRIME: AMENDING SECTION 53-9-128, MONTANA CODE ANNOTATED."

In 1977 when Montana enacted the Innocent Victims of Crime Act, it established the benefit levels at two-thirds of the gross wage the victim was receiving at the time of the incident up to a maximum of \$125 a week and \$25,000 in the aggregate for any one victim. These maximum amounts were somewhat scaled down, for those victims who were employable but not employed, and established \$100 a week maximum. ~~for employable but not employed people~~ ^{These with} an aggregate maximum of ~~\$20,000~~ ^{\$20,000} in benefits

At the time these statutory provisions were enacted, the State's average weekly wage adopted by the Division for workers' compensation purposes was \$162, which meant that innocent victims' wage compensation was only \$37 (or 22%) less than an individual who suffered injury as a result of an industrial accident. By 1983, the state's average weekly wage has risen to \$263 a week, which is now \$138 more a week than the Crime Victim wage loss benefit. It is quite obvious that the statutory limitation on benefits has not kept pace with inflation nor does it allow the Division any discretion to pay benefits in accordance with available funding. (520-)

The Division's proposal would allow it to pay a maximum wage loss benefit of an amount equal to the State's average weekly wage and an aggregate benefit of 200 times the State's average weekly wage. By the same token, for those employable but not employed, it would allow the Division to pay 1/2 the State's average weekly wage as a maximum and a product of 200 times ~~the~~ ^{1/2} the

$\begin{array}{r} \$6,450 \\ \$4 = \\ \$5 = \end{array}$
 $\begin{array}{r} 60,600 \\ 60,600 \end{array}$

State's average weekly wage as an aggregate. By setting the maximum limitation, it does not necessarily mean that all benefits would be paid at the maximum level. Benefits will be paid in accordance with funding available as determined at the beginning of each fiscal period.

Section 53-9-108, Montana Code Annotated, states, "If the Division determines at any time that funds for the fiscal year will not be an amount to fully pay all claims, the Division may make appropriate proportionate reductions in benefits to all claimants. Such reductions do not entitle claimants to future retroactive reimbursements in future fiscal years unless the legislature makes appropriations for such retroactive benefits."

Therefore, it is the Division's intention that it pay benefits only in amounts which reflect available funding. As of June 30, 1982, this Act has provided benefits to 693 victims who would have otherwise suffered financial loss or hardship because they were an innocent victim of criminal conduct. We would hope that by setting a maximum limitation on benefit awards and allowing the Division to determine the actual benefit level, payments according to funding available give the Division the administrative authority to fully implement the intention of the Act.

WRP:bc



Exhibit H
HB 211
1/24/83

January 24, 1983

WORKING TOGETHER:

American Baptist Churches of the Northwest
American Lutheran Church Rocky Mountain District
Christian Church (Disciples of Christ) in Montana
Episcopal Church Diocese of Montana
Lutheran Church in America
Pacific Northwest Synod
Roman Catholic Diocese of Great Falls
Roman Catholic Diocese of Helena
United Church of Christ Montana Conference
United Presbyterian Church Glacier Presbytery
United Methodist Church Yellowstone Conference
United Presbyterian Church Yellowstone Presbytery

Chairman Brown and Members of the House Judiciary Committee:

I am Cathy Campbell of Helena, speaking on behalf of the Montana Association of Churches. I am speaking in support of HB 211.

The nine member denominations represented by the Montana Association of Churches have been concerned about the innocent victims of crime for many years. The Association first adopted a position in 1976 supporting the enactment of a Victim of Crime Compensation Law.

We feel that laws relating to compensation of victims of crime should be consistent with the just need of reparation for the victim.

HB 211, which relates the maximum compensation benefits to the average weekly wage would seem to more accurately reflect this just need in current times. I therefore urge your support of HB 211.

Exhibit I
HB 347
1/24/83

WITNESS STATEMENT

Name John BARKEMEYER Committee On _____
Address Helens Mt. Date 1-24-83
Representing Helens Mortgag Co Support X
Bill No. 347 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The law must offer all reasonable protection to the parties. Recording Notices of Trustees Sale a other documents relative to the sale insures not only that they have constructive notice of the proceedings but also insures that the sale proceeding can be easily proven to have conformed to the law subsequent to the sale.

1. The word "recorded" eliminates the ambiguity in the present act.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

HOUSE BILL NO. 347

Exhibit J
HB 347
1/24/83

That House Bill No. 15 be amended as follows:

Amend House Bill 347, introduced bill, page 4, section 2,
line 15, strike the figure "\$250." and insert in lieu thereof:
"3% of the amount due on the obligation, both principal and
interest at the time of default."

PROPOSED AMENDMENTS TO HOUSE BILL 210

Exhibit K
NB 210
1/24/83

1. Title, line 7.

Following: "OFFENSES"

Insert: ", AND EXEMPTING THE OPERATOR OF A VEHICLE LAWFULLY DISPLAYING DEALER PLATES FROM THE REQUIREMENT THAT A PROOF OF INSURANCE CARD MUST BE CARRIED IN ALL MOTOR VEHICLES"

2. Page 2, line 25.

Following: "person"

Insert: ", except the operation of a vehicle lawfully displaying dealer plates pursuant to 61-1-314,"

HOUSE BILL NO. 347

Exhibit J
HB 347
1/24/83

That House Bill No. 15 be amended as follows:

Amend House Bill 347, introduced bill, page 4, section 2,
line 15, strike the figure "\$250." and insert in lieu thereof:
"3% of the amount due on the obligation, both principal and
interest at the time of default."

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 191

DATE January 24, 1983

SPONSOR Rep. Ramirez

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Stacy A Flaherty	Helena	Women's Lobbyist Fund	✓	
Capitol	Lobby		X	
Jack Ramirez	Billings	Sponsor	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY

JUDICIARY

COMMITTEE

BILL House Bill 210

DATE January 24, 1983

SPONSOR Rep. Pistoria

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 211

DATE January 24, 1983

SPONSOR Rep. J. Brown

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY

JUDICIARY

COMMITTEE

BILL House Bill 246

DATE January 24, 1983

SPONSOR Rep. Mueller

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL House Bill 257

DATE January 24, 1983

SPONSOR Rep. Ramirez

NAME	RESIDENCE	REPRESENTING	SUP-	POSE
Alan Robertson	HELENA	SEC. OF STATE	X	
Ramsey	Billings	Sponsor	X	
A. S. Hanson	HELENA	MT. TECHNICAL COUNCIL	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL House Bill 347

DATE January 24, 1983

SPONSOR Rep. Donaldson

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.