

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

February 8, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, February 8, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Reps. Rapp-Svrcek and Grady who were excused.

ACTION ON HOUSE BILL NO. 444: Rep. Brown moved that HB 444 DO PASS. The motion was seconded by Rep. Gould and discussion followed. It was brought out in discussion that the enforcement provision of the bill will be brought in line with the federal provision. The question was called, and the DO PASS motion carried with Representative Montayne dissenting.

ACTION ON HOUSE BILL NO. 532: Rep. Brown moved that HB 532 DO PASS. The motion was seconded by Rep. Gould, and discussion followed.

Rep. Keyser spoke against the bill saying that he feels it is none of our business to be telling parking services what to do or what not to do. Rep. Gould feels the bill is not a vindictive bill, but he thinks these parking services should be required to conform to the city codes.

The question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 353: Rep. Mercer moved that HB 353 DO PASS. The motion was seconded by Rep. Gould, and a brief discussion followed. The question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 467: Rep. Keyser moved that HB 467 DO PASS. The motion was seconded by Rep. Gould, and discussion followed. Rep. Darko referred back to testimony given by a proponent of the bill, Juanita Kajkowski, by saying that she didn't understand how Ms. Kajkowski ran into this type of problem. Rep. Darko stated that Ms. Kajkowski didn't have to sign the contract in the first place.

It was Rep. Keyser's opinion that a person should have the right to say they object to one particular union. He said it won't change anything else as far as their being required to pay their fees.

Rep. Hannah again stated that this bill is addressed to a particular problem.

Rep. Addy stated his problem with the bill is it allows the reason for not paying the dues to be particularized so much.

The question was called, and the DO PASS motion carried 9-8. (See roll call vote.)

ACTION ON HOUSE BILL NO. 664: Rep. Brown moved that HB 664 DO PASS. The motion was seconded by Rep. Darko. Rep. O'Hara made a substitute motion that HB 664 DO NOT PASS. The motion was seconded by Rep. Brown, and discussion followed.

Rep. O'Hara feels this is a bad bill. He doesn't think the legislature needs to place road blocks up for priests and ministers. He furthermore doesn't feel that all avenues should be foreclosed to people who would seek help from the clergy.

Rep. Bergene stated that no one has to turn anyone in before they strongly suspect child abuse. She feels that the clergy should be included under this provision as well.

Rep. Keyser feels that by passing this bill, we would be, in effect, telling the churches what to do. He asked, "What about the question of separation of church and state?"

Rep. Darko stated that there is an obligation on the part of ministers to report child abuse cases to the authorities.

Rep. Mercer doesn't feel that passage of the bill is going to necessarily reduce the number of child abuse cases. He also stated his concern in regards to who these people will turn to for counseling if they are made aware of this new proposed law. He stated he is also concerned about the language on page 4, lines 2 and 3 (the amended language) which would expand S.R.S.'s duties.

Rep. Addy pointed out that the language on page 2, line 16 doesn't affect the priest-brethren relationship.

Rep. Hannah moved to amend the bill by striking on page 4 all the added language. The motion was seconded by Rep. Brown and discussed.

Rep. Hannah is concerned with the new language that has been added because he feels it is opening the bill up dramatically. He feels with this language that the bill is being expanded way beyond the reasonable realm.

Rep. Kruegar stated his objection to the motion to amend. He said that in many of these situations, the ability to interact with the child's siblings is very necessary for the social worker. Because of the amazing number of child abuse cases, he feels that siblings should not be excluded.

Rep. Mercer requested that the amendment be divided.

Rep. Eudaily spoke against the amendment (#1). He feels that allowing the S.R.S. to follow-up is just a preventive measure.

Rep. Hannah stated his point for moving the amendments. He feels that the scope of neglect and the scope of abuse are being expanded.

The motion to delete the language "or if suspected abuse or neglect is reported" failed 7-9. (See roll call vote.)

The question was called on the motion which would delete on page 4, line 8, the words "and his siblings". The motion failed 3-13.

Discussion was directed to the bill itself. Again, Rep. Keyser stated that he doesn't feel ministers and church leaders should be included in the bill.

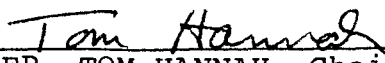
Rep. Darko said that she is airing on the side of the child rather than the adult, and she fully supports the bill.

Rep. O'Hara said that while he's 100% opposed to child abuse, he has a problem involving the state to the extent it is under this bill.

Rep. Hannah pointed out that there is a large number of clergy who, in fact, are presently reporting child abuse information. He feels this bill is definitely an invasion into the pastoral-brethren relationship.

The question was called on the DO NOT PASS motion. The motion passed 12-5. (See roll call vote.)

Executive session ended 8:05, and the regular daily meeting followed.

  
REP. TOM HANNAH, Chairman

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

February 8, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, February 8, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 622: Rep. Bob Thoft, House District #63, sponsor of the bill, testified in support of it. He said this is an act to delete as an element of the offense of issuing a bad check the requirement that it be done with the purpose of obtaining control over property or to secure property, labor, or services of another.

There being no further proponents or opponents, Rep. Thoft closed. It was brought out in brief discussion that HB 341 which was previously considered by the committee deals with the same statute.

CONSIDERATION OF HOUSE BILL NO. 667: Rep. Gene Donaldson, District No. 43, chief sponsor of the bill, appeared and offered testimony on its behalf. Rep. Donaldson stated this bill arose out of the county's concern that they are unable to provide adequate detention facilities for juveniles.

Steve Nelson, Chief of the Juvenile Justice Bureau for the Department of Justice, appeared and offered testimony in support of this bill. He submitted a written statement which reveals statistics prepared by the Montana Board of Crime Control outlining the present situation on this issue. The attachment was marked Exhibit A. He feels that Mountain View School may meet the needs of 60% of the juvenile jail population. He said that it would be a low cost temporary solution to the problem of providing facilities that meet the nationally accepted standards. It may prove to be a long term solution, and it will certainly allow time for planning and exploring additional alternatives.

Harold Hanser from Billings, Montana, appeared and offered testimony in support of the bill. He said it will at least provide counties immediate relief with trying to address the juvenile detention issue.

Richard Meeker, chief probation officer for the county of Lewis and Clark, stated his support for the bill. He stated

that a place was needed to detain delinquent youths who are awaiting trial. He said that without such a facility, there could be an increased number of lawsuits. Mr. Meeker informed the committee that at the present time, girls are held in the Mountain View facility.

Curt Chisholm, Deputy Director for the Department of Institutions, informed the committee that Pine Hills School for Boys doesn't have adequate facilities; however, Mountain View School does. He stated his support of this bill as requested by the Montana Board of Crime Control.

There being no further proponents or opponents, Rep. Donaldson closed.

In response to some general questions, Mr. Nelson stated that the clinical staff at Mountain View school will be available for the additional juveniles sent there. He pointed out that another part-time teacher may be hired.

In response to question asked by Rep. Montayne, Mr. Chisholm stated that the Department of Institutions did not want to define Swan River Forest as a juvenile detention center.

Jeff Langen offered some comments with regards to the bill. He said they have spent a great deal of time to come up with a legislative package such as this.

There being no further questions, hearing closed on HB 667.

CONSIDERATION OF HOUSE BILL NO. 522: Rep. Ray Peck, House District #15, appeared and offered testimony in support of this bill. The bill is an act providing for lawful service upon claimants or owners of certain property subject to forfeiture. He said that the intent of the bill is to provide due process in the sections as stated in the bill which is not currently being provided.

There being no further proponent or opponents, Rep. Peck closed. The committee asked no questions, and hearing on HB 522 closed.

CONSIDERATION OF HOUSE BILL NO. 528: Rep. Norm Wallin, District #78, appeared and offered testimony as HB 528's sponsor. This is an act providing the right of access on-to public or private property when necessary for the completion of a survey. He said that surveyors need accessibility in order to complete the work intended. He said this bill just simply gives them the right to locate reference points and complete their surveys.

H. S. Hanson, representing the Montana Technical Council, appeared and offered testimony in support of the HB 378. He said this particular bill assures that the surveyor would be able to complete his work on private land. He would have to notify the landowner, however, ahead of time and request his permission. There is no intention of circumventing the owner's right, but merely allow the surveyor to establish the records and corner points.

There were no further proponents.

Russ Brown, Northern Plains Resource Council of Helena, appeared and testified against this bill. He stated that he was concerned that passage of this bill would result in abuses on the part of surveyors.

There being no further opponents, Rep. Wallin closed. Rep. Wallin pointed that there are safeguards set forth in the bill with regards to damages done by the surveyor.

The floor was opened to questions from the committee.

Rep. Miles stated her concern with the language included in subsection (4) of the bill. She said it appears as though surveyors would be eligible to receive attorney fees as a result of obtaining an injunction. Rep. Wallin again stated that the whole purpose of the law was so that surveyors can be completed when necessary.

Rep. Eudaily felt that subsections 2, 3, and 4 should become subsections under 1 because he thinks they are dependent upon subsection 1.

Mr. Hanson informed the committee that one of the reasons landowners do not allow these surveys on their land is because they feel they are, in effect, stopping the building of subdivisions. He feels to deny an individual access to find a corner point is definitely wrong.

In response to a question asked by Rep. Miles, Mr. Hanson said that surveyors usually give landowners two weeks' notice before crossing onto their property. Mr. Hanson stated that he has no problem if the committee wishes to specifically include a two-week time frame for the surveyor to give notice.

Rep. Keyser pointed out that the bill refers to completion of a total survey.

Following more questions from the committee, hearing closed on HB 528.

CONSIDERATION OF HOUSE BILL NO. 566: Rep. Fred Thomas, District #62, appeared and offered testimony in support of this bill. He informed the committee that this bill was introduced at the request of the Montana Peace Officers Association. It is an act to prohibit the installation and use of automatic dial-up security alarm systems.

PROPOSERS: Curt Petty, director of the Montana Peace Officers Association, appeared and offered testimony in support of the bill. He offered an amendment to the bill which would amend Section 1. The proposed amendment was marked as Exhibit B and is attached hereto.

Walter Niehoff, an electrician, stated his support for the bill with the amendment as proposed by Mr. Petty. He feels the bill as initially written is too broad. He supports the amendment which would limit automatic dial-up systems.

OPPOSERS: Dale Miller, president of Security Safety Systems, Inc., feels the bill as initially proposed is too broad, and it would make most burglar and fire alarm systems which are currently being installed in the State of Montana, illegal. A copy of his testimony was marked Exhibit C and is attached hereto.

Ken Knell, from Missoula, appeared and offered brief testimony. He feels they should be the ones to decide which system to be used.

There were no further proponents or opponents to the bill, and the floor was opened up for questioning.

In response to a question asked by Rep. Miles, Mr. Petty said that there are certain guidelines a person has to follow when installing these alarm systems.

Following some additional questions and comments, hearing on HB 566 closed.

CONSIDERATION OF HOUSE BILL NO. 575: Rep. Mike Kadas, House District #55, sponsor of the bill, offered testimony in support of it. This is an act increasing the sentence for unlawful restraint if the victim is less than 16 years old, the offender is at least 3 years older, and one or more certain other offenses are committed. He said this bill was a result of concern for kidnapping victims. It would increase the penalty for unlawful restraint. Rep. Kadas did offer an amendment which would strike on line 25 following "victim" the remainder of the sentence.

Jo Anne Peterson, legislative intern for the Montana Education Association, testified in support of this bill. She said that according to a 1984 article in Junior Scholastic, strangers take away an estimated 50,000 children a year. She gave examples of the lenient sentences some of these kid-nappers receive when they are caught and convicted. A copy of her testimony was marked as Exhibit D and is attached hereto.

There were no further proponents or opponents, and Rep. Kadas closed.

Rep. Keyser wanted to know if this bill affects divorced fathers. Rep. Kadas said that it would.

In response to a question of Rep. Hannah's on what the intent of the bill is, Rep. Kadas said it is primarily geared to deal with other circumstances instead of custodial interference.

Hearing closed on HB 575.

CONSIDERATION OF HOUSE BILL NO. 600: Rep. Mercer, District #50, chief sponsor of the bill, said this is an act to include out-of-state convictions for driving under the influence of alcohol or drugs and driving with excessive blood alcohol concentration. He said the bill is aimed at multiple offenders.

Larry Majerus, administrator from the Motor Vehicle Division of the Department of Justice, appeared and testified before the committee.

There were no further proponents or opponents, and Rep. Mercer closed.

Rep. Montayne asked if an out-of-state driver's license is suspended in Montana, will it be suspended in the state he resides in? Mr. Majerus said his driving privileges would be suspended in Montana, and the division would also report his suspension to his home state.

Hearing closed on HB 600 and the committee went into executive session at 10:10 a.m.

ACTION ON HOUSE BILL NO. 186: Rep. Brown moved that HB 186 DO PASS. The motion was seconded by Rep. Darko and discussed. Rep. Brown feels this bill is in good shape and provides flexibility to counties.



Rep. Keyser moved to amend on page 1, line 16 following "SENSES" to strike the rest of the language on lines 17 through 18. Also, he wishes to insert on line 16 following "INDECENT" the word "OR". The motion was seconded by Rep. Brown. Rep. Keyser feels this language is indefinable and too broad.

Rep. Addy stated his opposition to the amendment. He feels that by eliminating this language, we may be excluding a number of things that should be declared nuisances.

Rep. Miles also stated her opposition to the motion to amend. She said that this language just describes further what a public nuisance is.

The motion to amend failed.

Rep. Mercer moved to amend on page 2, line 14 following "NOTICE" by inserting "IN WRITING". He felt this language may help clarify this portion of the bill. The motion was seconded by Rep. O'Hara and carried unanimously.

Rep. Brown moved that HB 186 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond, and the question called. The motion carried with Rep. Hannah and Cobb dissenting.

RECONSIDERATION OF HOUSE BILL NO. 210: Rep. O'Hara moved that HB 210 be brought off the table. It was seconded by Rep. Mercer. Rep. Brown stated his opposition to this motion. After a brief discussion, the motion to bring HB 210 off the table failed 8 to 8.

ACTION ON HOUSE BILL NO. 531: Rep. Addy moved that HB 531 DO PASS. The motion was seconded by Rep. Montayne. Rep. Addy further moved to amend this bill on page 3, line 19 by striking "license" and inserting "licensee". The motion was seconded by Rep. O'Hara and passed unanimously. Rep. Addy further moved that HB 531 DO PASS AS AMENDED. The motion was seconded by Rep. Montayne and carried unanimously.

ACTION ON HOUSE BILL NO. 413: Rep. Addy moved that HB 413 DO PASS. The motion was seconded by Rep. Rapp-Svrcek.

Rep. Addy moved to amend the bill as follows:

1. Title, line 4  
Following: "REMOVING"  
Strike: "COLLECTIVE" through "AND" on line 5.  
Insert: "CERTAIN"

2. Page 2, following line 4.

Insert: "(3) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency. For the purposes of this subsection, "litigation" means a civil action in which a complaint has been filed or a criminal proceeding in which a complaint or information has been filed or an indictment has been found."

Discussion followed. It was Rep. Keyser's opinion that this amendment just makes a bad bill a little worse. He feels it is an unfair advantage of one party over the other. Rep. Montayne agreed with Rep. Keyser.

Rep. Rapp-Svrcek said that he supports the amendment because he feels it make the present law on the books even better. There was more discussion on the amendment, and the question was called. The motion carried 10-7.

Rep. Hammond moved that HB 413 DO PASS AS AMENDED. The motion was seconded by Rep. Miles and further discussed.

Rep. Montayne stated his opposition to the bill.

Rep. Addy pointed out that the bill is different now with the newly adopted amendment and thinks it is very reasonable.

Rep. Gould feels the bill is not a good one. Rep. O'Hara moved a substitution motion that HB 413 DO NOT PASS. The motion was seconded by Rep. Gould. The motion carried 11-6.

ACTION ON HOUSE BILL NO. 502: Rep. Gould moved that HB 502 DO PASS. The motion was seconded by Rep. O'Hara. Rep. Keyser made a substitute motion that HB 502 DO NOT PASS. The motion was seconded by Rep. Miles and discussed.

Rep. Keyser said that he is against the government trying to obtain names of the public from governmental agencies. He doesn't want to make the job any easier for them. Rep. Keyser does think the selective service should continue with their educational program to encourage young men to register.

Rep. Mercer spoke against Rep. Keyser's substitute motion. He told the committee to keep in mind that the issue of national defense is being addressed.

Rep. Rapp-Svrcek agrees with Keyser in that this bill would endanger individual rights to privacy.

Rep. Montayne also spoke in favor of the do not pass motion. He feels this is one step that could lead into other areas of obtaining records.

Upon suggestion of Brenda Desmond, committee researcher, Rep. Addy moved the following amendment:

Page 2, line 24.

Following: "law."

Insert: "Any division response to such request may include only the names, addresses, and birth dates of such males and may not include social security numbers."

The title of the bill was also amended to conform with the above language. The motion was seconded by Rep. Hammond and carried 14-3. (See roll call vote.)

Discussion was further had on the DO NOT PASS motion.

Rep. Gould pointed out that 48 other states have passed legislation similar to this. He certainly hates to see Montana become a haven for draft dodgers.

Rep. Rapp-Svrcek said that he is proud to think that Montana is a state that protects the privacy of its individuals.

Rep. Miles also stated her hesitation to pass this bill.

Following further discussion along these lines, the question was called on the DO NOT PASS motion and it carried 12-5.

ACTION ON HOUSE BILL NO. 547: Rep. Darko moved that HB 547 DO PASS. The motion was seconded by Rep. Eudaily and the question called. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 667: Rep. Gould moved that HB 667 DO PASS. The motion was seconded by Rep. O'Hara and discussion followed.

Rep. Miles has a problem with requiring the counties to pay costs out of district court funds.

Rep. Hannah said that the legislature needs to make a definitive statement as to where they would like funds to come from and that the matter of who must pay will be settled in a lawsuit eventually anyway.

The question was called on the DO PASS motion, and it carried unanimously.

ACTION ON HOUSE BILL NO. 681: Rep. Montayne moved that HB 681 DO NOT PASS. Rep. O'Hara moved a substitute motion that HB 681 DO PASS. The motion was seconded by Rep. Miles and discussion followed.

Rep. Eudaily moved to strike on page 3, lines 7, 8 and 9. The motion was seconded by Rep. Mercer. The title would be amended accordingly.

The question was called and the motion to amend carried with Rep. Krueger dissenting.

Rep. Hammond moved that HB 681 DO PASS AS AMENDED. The motion was seconded by Rep. O'Hara and carried with Reps. Montayne, Gould, Krueger, Poff and Hannah dissenting.

ADJOURN: A motion having been made to adjourn, and having been seconded, the meeting adjourned at 11:30 a.m.

  
\_\_\_\_\_  
REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/8/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady			✓
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek			✓

# STANDING COMMITTEE REPORT

February 8

1935

**SPEAKER:**

MR. ....

We, your committee on **JUDICIARY** .....

having had under consideration ..... **HOUSE** ..... Bill No. **136** .....

**SECOND**

**YELLOW**

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reading copy ( ~~BLACK~~ )  
color

**COUNTY ORDINANCE TO CONTROL COMMUNITY DECAY**

Respectfully report as follows: That ..... **HOUSE** ..... Bill No. **136** .....

be amended as follows:

1. Page 2, line 14.

Following: **"NOTICE"**

Insert: ", in writing,"

**AND AS AMENDED,**

**DO PASS**

# STANDING COMMITTEE REPORT

February 9

19 85

MR. **SPEAKER:** .....

We, your committee on ..... **JUDICIARY** .....

having had under consideration ..... **HOUSE** ..... Bill No. **467** .....

**FIRST** ..... reading copy ( **WHITE** ..... )  
color

**RELIGIOUS BELIEF VS. REQUIRING PUBLIC EMPLOYEE TO JOIN LABOR ORGANIZATION**

Respectfully report as follows: That ..... **HOUSE** ..... Bill No. **467** .....

**DO PASS**

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2/8/85 BILL NO. HB 467 TIME 7:35

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Keyser moved that HB 467 DO PASS. The motion  
was seconded by Rep. Gould and passed 9-8.



# STANDING COMMITTEE REPORT

February 6

19 35

**SPEAKER:**

MR. ....

**JUDICIARY**

We, your committee on .....

**HOUSE**

having had under consideration ..... Bill No. **664**

**FIRST**

reading copy ( **WHITE** )  
color

**REVISE CHILD ABUSE OR NEGLECT REPORT AND ACCESS TO INFORMATION  
LAW**

**HOUSE**

Respectfully report as follows: That ..... Bill No. **664**

**DO NOT PASS**

**DO PASS**

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 8, 1985

BILL NO. HB 664

TIME 8:00

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould	✓	
Edward Grady		
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek		
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Hannah moved to amend by deleting the language

"or if suspected abuse or neglect is reported" on page 4, lines  
2 and 3. The motion was seconded by Rep. Brown and failed 7-9.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 8, 1985 BILL NO. HB 664 TIME 8:00

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould	✓	
Edward Grady		
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger		✓
John Mercer		✓
Joan Miles		✓
John Montayne		✓
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek		
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Hannah moved to delete on page 4, line 8, the  
words "and his siblings". The motion was seconded by Rep.  
Brown and failed 3-13.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 8, 1985

BILL NO. HB 664

TIME 8:05

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. O'Hara moved that HB 664 DO NOT PASS. The motion  
was seconded by Rep. Brown and carried 12-5.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2/8/85 BILL NO. 210 TIME 10:25

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould	✓	
Edward Grady		
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger		
John Mercer	✓	
Joan Miles	✓	
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. O'Hara moved to take HB 210 off the table.

The motion was seconded by Rep. Mercer. Motion failed due to a  
tie vote.

# STANDING COMMITTEE REPORT

February 8

19 35

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 413

FIRST reading copy ( WHITE )  
color

## REMOVING COLLECTIVE BARGAINING AND LITIGATION EXEMPTIONS FROM OPEN MEETINGS

Respectfully report as follows: That HOUSE Bill No. 413

be amended as follows:

1. Title, line 4.

Following: "REMOVING"

Strike: "COLLECTIVE" through "AND" on line 5.

Insert: "CERTAIN"

2. Page 2, following line 4.

Insert: "(3) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency. For the purposes of this subsection, "litigation" means a civil action in which a complaint has been filed or a criminal proceeding in which a complaint or information has been filed or an indictment has been found."

AND AS AMENDED.

DO NOT PASS

Remember subsequent subsection.

XXXXXX  
DO PASS

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2/8/85 BILL NO. 413 TIME 10:45

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene		✓
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Addy moved to amend the bill. (The amendments are  
referred to in the minutes). Motion carried 10-7.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2/8/85 BILL NO. 413 TIME 10:50

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. O'Hara made a substitute motion for a DO NOT PASS.

The motion was seconded by Rep. Gould and carried 11-6.



# STANDING COMMITTEE REPORT

February 8, 1935

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 502

FIRST reading copy (WHITE color)

DRIVER'S LICENSE LISTS AVAILABLE TO SELECTIVE SERVICE TO CHECK COMPLIANCE

Respectfully report as follows: That HOUSE Bill No. 502  
be amended as follows:

1. Title, line 7.

Following: "YEARS;"

Insert: "LIMITING THE INFORMATION THAT MAY BE DISCLOSED IN  
SUCH LISTS;"

2. Page 2, line 24.

Following: "law."

Insert: "Any division response to such request may include only  
the names, addresses, and birth dates of such males and may not  
include social security numbers."

AND AS AMENDED,  
DO NOT PASS  
~~DO PASS~~

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2/8/85 BILL NO. HB 502 TIME 11:10

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Addy moved the following amendment: Page 2, line 24.

Following "law." insert: "Any division response to such request  
may include only the names, addresses, and birth dates of such males  
and may not include social security numbers." The motion was  
seconded by Rep. Hammond and carried 14-3.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2/8/85 BILL NO. HB 502 TIME 11:15

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould		✓
Edward Grady		
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer		✓
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara		✓
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Keyser made a substitute motion for a DO NOT PASS.

The motion was seconded by Rep. Miles and passed 12-5.

# STANDING COMMITTEE REPORT

February 8

1935

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 531

FIRST reading copy (WHITE)  
color

**PROBATIONARY DRIVERS' LICENSE; PENALTY FOR VIOLATING RESTRICTIONS**

Respectfully report as follows: That HOUSE Bill No. 531

be amended as follows:

1. Page 3, line 19.  
Strike: "license"  
Insert: "licensee"

**AND AS AMENDED,  
DO PASS**

# STANDING COMMITTEE REPORT

February 9 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 681

FIRST reading copy (WHITE color)

**ALLOW RELEASE OF CONFIDENTIAL HEALTH INFORMATION TO MEDIA & LAW ENFORCEMENT**

Respectfully report as follows: That HOUSE Bill No. 681

be amended as follows:

1. Title, line 6.  
Strike: "OR TO THE NEWS MEDIA"
2. Page 3, line 6.  
Strike: ":"  
Insert: "."
3. Page 3, lines 7 through 9.  
Strike: subsection (i) in its entirety.

**AND AS AMENDED,  
DO PASS**

# STANDING COMMITTEE REPORT

February 8 1985

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 547

FIRST reading copy (WHITE color)

REVISION OF LAW ON CERTAIN SEXUAL CRIMES

Respectfully report as follows: That HOUSE Bill No. 547

DO PASS

# STANDING COMMITTEE REPORT

February 3

33

19.....

**SPEAKER:**

MR. ....

**JUDICIARY**

We, your committee on .....

**HOUSE**

having had under consideration ..... Bill No. **667**

**FIRST**

reading copy ( **WHITE** )  
color

**DETENTION OF ALLEGED DELINQUENT YOUTHS AT MOUNTAIN VIEW SCHOOL**

**HOUSE**

Respectfully report as follows: That ..... Bill No. **667**

**DO PASS**

# STANDING COMMITTEE REPORT

February 3

19 35

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **353**

**FIRST** reading copy (**WHITE**  
color)

**AGGRAVATED BURGLARY IF ENTER OCCUPIED STRUCTURE TO COMMIT  
AN OFFENSE**

**HOUSE**

**353**

Respectfully report as follows: That..... Bill No.....

DO PASS



# STANDING COMMITTEE REPORT

February 9 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 532

FIRST reading copy ( WHITE )  
color

**LIMITATION ON PENALTIES THAT MAY BE IMPOSED BY A PRIVATE  
PARKING SERVICE**

Respectfully report as follows: That HOUSE Q Bill No. 532

DO PASS

# STANDING COMMITTEE REPORT

February 3 1985

SPEAKER:  
MR. ....

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 444

FIRST reading copy ( WHITE color )

NOTICE OF INCOME WITHHEOLDING PROCEDURE INCLUDED IN ALL CHILD  
SUPPORT ORDERS

Respectfully report as follows: That HOUSE Bill No. 444

DO PASS

HB 667 By Donaldson, Fuller et al

JUVENILE DETENTION AT MOUNTAIN VIEW SCHOOL

PROBLEM - JUVENILES CAN NO LONGER BE HELD IN ADULT JAILS

1. The Federal Juvenile Justice and Delinquency Prevention Act of 1984 mandates removal of all juveniles from adult jails.
2. An Oregon federal court case (D.B. vs. Tewksbury) condemned the practice of using adult jails for juveniles. The court found that the following conditions among others, imposed in preadjudication detention of juveniles are in violation of the due process clause: (a) failure to provide any form of work, exercise, education, recreation or recreational materials; (b) failure to provide adequate staff supervision to protect children from harming themselves and/or other children; and (c) failure to train staff to be able to meet the psychological needs of confined children.
3. National jail standards developed by the National Sheriff's Association, the American Corrections Association and the American Bar Association/Institute for Judicial Administrations call for the removal of juveniles from adult jails and the development of objective criteria for the use of secure detentions.
4. The United State Supreme Court Decision (Shall vs. Martin) in 1984 authorized the use of "Preventive Detention", but cautioned that the decision to detain a youth must be based on clearly stated, objective criteria.

THE STATUS QUO IN MONTANA

1. County jails are the only secure facilities available to detain youth awaiting court action (preadjudicatory detention). Most of these facilities do not meet nationally accepted standards for adults, and are not prepared to meet the special needs of young people (see number 2 above).
2. Montana and Wyoming are the only states in the nation with no juvenile detention facilities. The cost of construction of a 10 bed facility would exceed \$1,000,000 and cost over \$120,000 to operate per year.
3. Montana does not have a sizable enough youth population to justify local government indebtedness for construction of detention facilities. The daily population of all youth in Montana jails regardless of length of time spent is less than 5. The recommended minimum size of a detention facility is 20.

4. Of the entire youth population in Montana jails only 15% are in jail more than 5 days. This 15% constitutes approximately 100 youths who spend in total approximately 1000 days in jail; This amount equals 80% of the total time spent in jail by all youths. The average daily population of youths constituting the 15% in jail more than 5 days is 3 youths.
5. The number of youth detained in Montana has been declining for the past 5 years. A 56% decline occurred from 1977 to 1983, and the projected data for 1984 indicates another 50% reduction. This dramatic change makes it nearly impossible to determine the number of secure beds needed to meet the needs of Youth Courts.

#### YOUTH JUSTICE COUNCIL - BOARD OF CRIME CONTROL

During 1984 the Juvenile Detention Task Force of the Youth Justice Council met to determine solutions to the detention problem. An initial project was a survey of the Youth Courts to determine what detention criteria would be acceptable. The results of this survey were presented to the Montana Probation Officers Association and the Task Force adopted a model set of criteria which could be implemented by Youth Courts.

The Task Force, Youth Justice Council and Board of Crime Control endorsed 3 major recommendations for this legislative session.

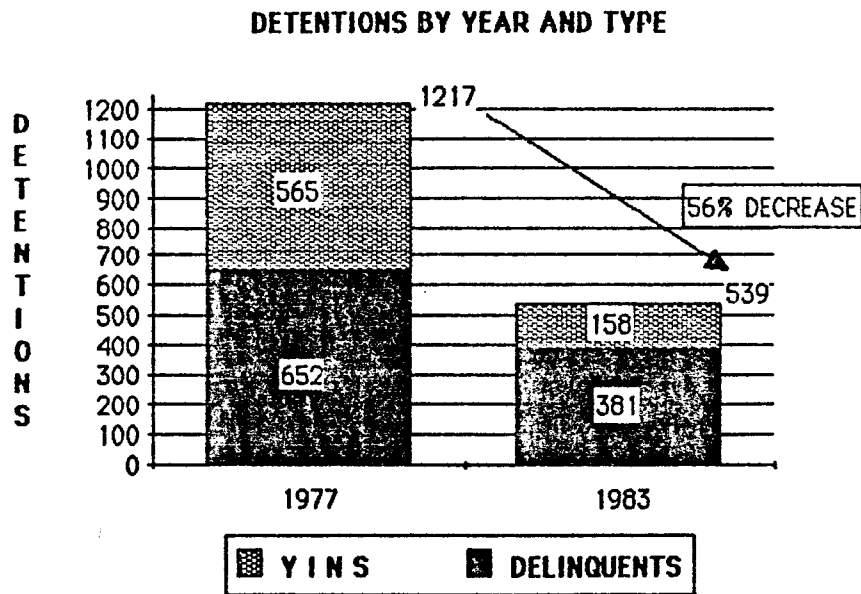
1. Require Youth Courts to develop Detention Criteria (SB 268)
2. Providing financial assistance to Youth Courts implementing the Council's criteria (HB 589).
3. Permit the detention of youth at state correctional facilities, (HB 667).

Allowing the use of Mountain View School could reduce the juvenile county jail population by 80%

Youth detained at Mountain View School will have access to education, recreation, health and counseling services that county jails can not afford to provide.

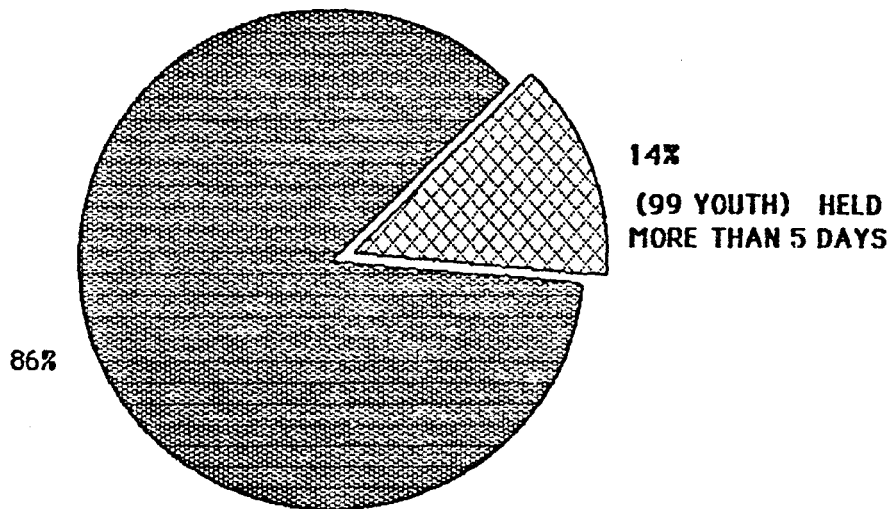
This Bill provides immediate relief to counties trying to address the juvenile detention issue. It may prove to be a long term solution. It will certainly allow time for planning and exploring additional alternatives.

## JUVENILE DETENTIONS IN 1977 AND 1983



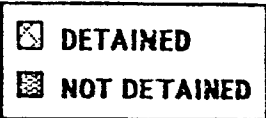
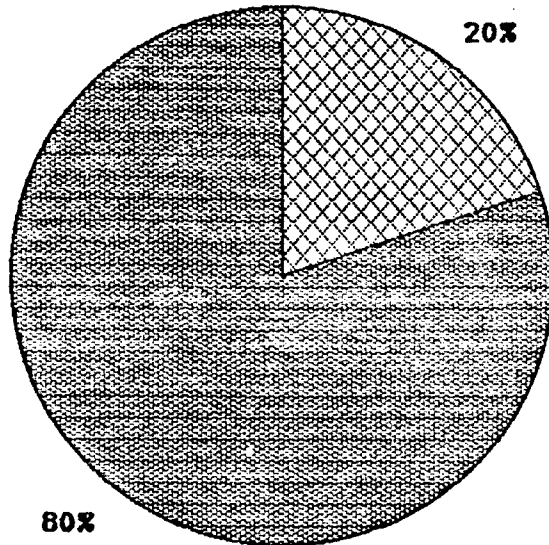
**JUVENILE DETENTION POPULATION - 1983**

**699 YOUTH DETAINED  
IN JAIL**



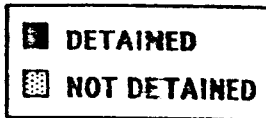
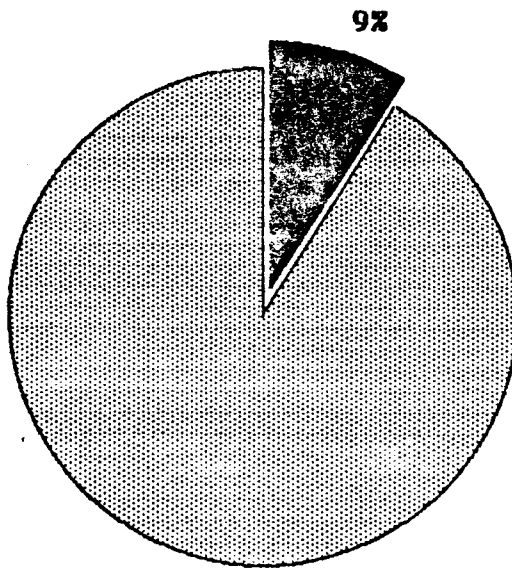
JUVENILE DETENTION

PERCENTAGE OF REFERRALS DETAINED



1977  
6,677 REFERRALS

PERCENTAGE OF REFERRALS DETAINED —  
1983



6,004 REFERRALS

HB 566

(offered by Curt ~~Box~~)

Section 1. Prohibition of automatic dial-up or tape dialers systems.

No person may install or use a ~~security~~ alarm system designed to automatically call a predetermined law enforcement telephone number, without the written permission of the chief law enforcement officer of the city or county. *ALL installations must be done by  
A Licensed Alarm installer.*

~~Section 3. delete~~





P.O. Box 1311 • Bozeman, Montana • 59715-1311 • (406) 587-3345

House Bill 566 should be rewritten because it is too broadly written and it would make most burglar and fire alarm systems which are currently being installed in the State of Montana, illegal.

The broad term "AUTOMATIC DIAL-UP SECURITY ALARM SYSTEM" needs to be clarified, before I comment on House Bill 566.

Automatic dial-up alarm system, is a general term, which includes several different types of dialers. They may include data processing systems, computers with security software, tape dialers and digital dialers.

The two types of systems I believe we are concerned with, are the tape dialers and the digital dialers.

A tape dialer is a device, that uses a pre-recorded tape, to dial a telephone number and then it gives a message.

A digital dialer electronically, dials a telephone number to which a computer is connected. The digital dialer then gives, coded information to the computer.

With these definitions in mind, I believe House Bill 566, is too broadly written, because it includes tape dialers, which may be used to call a store managers' home, or a home owner's neighbor, about a furnace failure, a freezer failure, or a burglary. It is too broadly written, because it includes tape dialers, which call a telephone in the Sheriff's Office, which is paid for by an alarm company.

In some locations, especially small towns, telephone company equipment is not sophisticated enough, to even operate with a digital dialer, which would have to call long distance to a computer, because an operator intercepts a direct dialed call for billing information. The only means of getting an alarm message to the Sheriff, is a local call to his office, his home, or maybe to a deputy's home.

If House Bill 566 is passed as written, many banks and small businesses in these small towns, will have no security.

Another reason this Bill should be rejected as written, is the economic hardship it would cause. The alternative to dialers, is a direct telephone line, between the protected premise, and an alarm receiving panel, which is either located in the law enforcement agencies' dispatch area, or an answering service. This line, when it is available, is prohibitively expensive. The Public Service Commission, has allowed Mountain Bell to charge a minimum of \$332.00, to connect a direct line, if both the protected premises and the receiving panel are in a base rate area. If one or both locations are out of that area, additional charges apply. In addition to the installation charge, Mountain Bell is allowed to charge, at least, \$22.60 per month, if both locations are in the base rate area. The extra expense of a direct telephone line is more than many small businesses and home owners can afford.

I believe the benefits of House Bill 566 could not justify the predicaments, it would create for many businesses and home owners, in the State of Montana.



EXHIBIT D  
2/8/85 HB 575

# Montana Education Association

*for children and public education*

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February 8, 1985

Hearing on HB 575 (Kadas) Increasing the Sentence for Unlawful Restraint

Before: House Judiciary, Tom Hannah, Chairman

Testimony by Jo Anne Peterson, Montana Education Association, in support of House Bill 575.

Mr. Chairman and members of the committee my name is Jo Anne Peterson, Legislative Intern with the Montana Education Association. I will testify in support of House Bill 575.

One of the MEA's goals this session is to support bills that would strengthen Child Protection Laws in Montana. One of the bills we are supporting is HB 575, that would increase the sentence for unlawful restraint of a child less than 16 years old.

According to a 1984 article in Junior Scholastic, strangers take away an estimated 50,000 children a year most of them are never seen again. The stranger who does the kidnapping either is never found and if they are found they usually receive light sentences. There two examples where the guilty party gets away: A Billings man charged with aggravated assault in the alleged beating death of his girl friends two year old son was released from the Yellowstone County Jail just a few days after the murder. Another case out of a recent Ann Landers article spoke about a 28 year old man and his 25 year old wife had beaten to death their two year old son. The woman was released on a 5,000 bond, the couple face a year in jail and \$1,000 fines. In some states armed robbers get 20 years in jail even if they don't hurt anybody. Do you think we have a fair criminal justice system? What if it was your kid who is kidnapped or murdered how would you react if the

person who did it got a light sentence? I urge this committee to support this legislation. Thank You.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

HOUSE BILL NOS. 522; 528; 566; 575;  
600; 622; 667DATE February 8, 1985

SPONSOR \_\_\_\_\_

(PLEASE SHOW # OF BILL INTERESTED IN)

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Eric L. Miller <sup>H.B.</sup> 566	P.O. Box 131, Bozeman		X
Harold Laman 667	Billings	X	
Curt Ritz 566	Helena	X	
Todd Hudak 575	114 PEAK OF COUNTRIES		
Bill Unger	708 2 <sup>ND</sup> HELENA		
WALTER NIEHOFF	HELENA	X	
Johnny Petersen	MEAD, Helena	(515) X	
Kenneth Stapp	Mt. Ida		X
Wally Maynard	Mt. Ida		X
John Linn	Mt. Ida		X
Ron Brown <sup>HB</sup> 528	NPRC Helena		
Steve Nelson	Helena	667	
Larry Majors	Mt. Vehicle Div	600	
HS Housen	Mt. TECH Conn	378	X

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.