# MINUTES FOR THE MEETING JUDICIARY COMMITTEE MONTANA STATE HOUSE OF REPRESENTATIVES

February 16, 1985

An executive session of the Judiciary Committee was called to order by Chariman Tom Hannah on Saturday, February 16, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Montayne and Rep. Brown. (Rep. Brown arrived later).

ACTION ON HOUSE BILL NO. 577: Rep. O'Hara moved that HB 577 DO PASS. The motion included adopting the Statement of Intent. The motion was seconded by Rep. Gould.

Rep. Addy moved to amend the bill as follows: Page 5, line 17 following "ranges" insert "so long as the minimum rate is fully compensatory". On page 11, following line 11 insert: "NEW SECTION. Section 15. No preemption of laws governing anti-competitive activity. Nothing in (Sections 1 through 10 and 13) in any way preempts, abrogates, or otherwise affects any right, liability, or obligation arising from any federal or state law regarding unfair business practices or anticompetitive activity." The motion was seconded by Rep. Darko and carried with Rep. Keyser dissenting.

Rep. Addy moved that HB 577 DO PASS AS AMENDED. The motion was seconded by Rep. Gould, and discussion followed.

Rep. Keyser feels the bill should pass because regulations should be placed before the various companies find themselves involved in a lawsuit. The question was called, and motion to pass as amended carried unanimously.

ACTION ON HOUSE BILL NO. 380: Rep. O'Hara moved that HB 380 DO PASS. The motion was seconded by Rep. Miles. The question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 481: Rep. Keyser moved that HB 481 DO PASS. The motion was seconded by Rep. O'Hara, and carried unanimously.

ACTION ON HOUSE BILL NO. 541: Rep. Darko moved that HB 541 DO PASS. The motion was seconded by Rep. Mercer and carried unanimously.

ACTION ON HOUSE BILL NO. 585: Rep. Gould moved that HB 585 DO PASS. The motion was seconded by Rep. O'Hara and discussed.

Rep. Krueger moved a substitute motion to kill the bill. The motion was seconded by Rep. Addy. Rep. Krueger stated the purpose of the sentence review board in the first place is to review the sentence imposed by the judge. He said that the state's interests are being represented by the county attorney, and the interests of the defendant are being represented. He feels that judges should not be permitted to participate in the meetings, and further pointed out that the supreme court justices are not allowed to participate in hearings where their decisions are reviewed.

Rep. Gould disagreed with Rep. Kruegar. He feels that the judge who imposed the sentence should be able to participate in these proceedings. Rep. Keyser also spoke in favor of the bill. He asked what better person such as the sentencing judge should be able to be present and participate at the sentence review proceeding.

Rep. Rapp-Svrcek likes the bill because it allows other interested persons to be able to participate in these hearings.

(REP. BERGENE WALKED IN AT THIS POINT)

Rep. Addy's concern about the bill is that judges may be able to participate too much in the proceedings. He feels the language in the bill is too loose in that there are no limitations as to what degree other interested parties can participate.

Rep. Mercer spoke in favor of the bill. He feels, too, that the sentencing judge should be able to participate in these hearings along with other interested people.

(REP. BROWN WALKED IN)

Rep. Hammond stated that he is uncomfortable with the bill.

The question was called, and a roll call vote was taken on the substitute motion to kill the bill. The motion failed 5-12.

Rep. Keyser moved the vote be reversed on the motion for a DO PASS.

Rep. Addy made a substitute motion to amend the bill on page 2, line 6 by striking "presumed correct" and inserting "entitled to deference". The motion was seconded by Rep. Kruegar and failed 8-9. (See roll call vote.)

Rep. O'Hara moved that HB 585 DO PASS. The motion was seconded by Rep. Gould and carried 13-4. (See roll call vote.)

ACTION ON HOUSE BILL NO. 431: Rep. Keyser moved that HB 431 DO PASS. The motion was seconded by Rep. O'Hara. Brown made a substitute motion for a DO NOT PASS. motion was seconded by Rep. Keyser. Rep. Brown said the bill doesn't provide enough notice. There being no further discussion, the question was called and the motion passed with Reps. Poff and Hannah dissenting.

ACTION ON HOUSE BILL NO. 341: Rep. Gould moved that HB 341 be referred back to the house on second reading. The motion was seconded by Rep. O'Hara.

Rep. Cobb informed the committee that the sponsor of the bill wished to have the following amendment adopted by the committee. On page 1, line 15 delete "person to whom" and insert "holder of" and delete "is issued". The purpose of the amendment was for clarification. However, following further discussion, Rep. Cobb withdrew his motion to amend.

Without any objection from the committee, HB 341 was referred back to the house.

ADJOURN: Upon motion of Rep. Keyser, and that motion having been seconded, the meeting adjourned at 8:10 a.m.

Chairman Hannah called another executive session to order at 12:20 p.m. on Saturday, February 16, 1985 in Room 312-3 of the State Capitol. All members were present with the exception of Joan Miles who left her proxy vote with the chairman.

ACTION ON HOUSE BILL NO. 442: Rep. Brown moved that HB 442 DO NOT PASS. The motion was seconded by Rep. Montayne.

Rep. Bergene moved the following amendments:

1. Title, line 6. Following: "BROUGHT" Insert: "BY THE CHILD"

Following: "UNTIL" Insert "2 YEARS AFTER"

Following: "CHILD"

Strike: "BECOMES" through "AGE" on line 7.

Insert: "ATTAINS THE AGE OF MAJORITY AND BY AN AGENCY OF THE STATE UNTIL 2 YEARS AFTER AN APPLICATION IS MADE UNDER

TITLE IV-D OF THE SOCIAL SECURITY ACT FOR SERVICES TO THE CHILD"

2. Page 2, line 3. Following: "brought"

Insert: ": (a) by the child"

Following: "than"

Strike: "3" Insert: "2"

3. Page 2, line 4.
Following: "majority"

"; or (b) by a state agency later than 2 years Insert: after the first application is made under Title IV-D of the Social Security Act for services to the child"

Rep. Bergene's motion to amend was seconded by Rep. Hammond. Rep. Gould stated that he could not support the bill with these amendments. The question was called, and the motion to ammend carried with Reps. Brown, Hannah, Mercer, Gould, Keyser and Montayne dissenting.

Rep. Hammond moved that HB 442 DO PASS AS AMENDED. The motion was seconded by Rep. Darko, the question called, and a voice vote taken. The motion carried with Reps. Hannah, Mercer, Gould, Brown, and Keyser dissenting.

ACTION ON HOUSE BILL NO. 507: Rep. Keyser moved that HB 507 DO PASS. The motion was seconded by Rep. O'Hara. Rep. Brown made a substitute motion to kill the bill. The motion was seconded by Rep. Rapp-Svrcek and discussed.

Rep. Bergene moved a substitute motion to table HB 507. The motion was seconded by Rep. Krueger. Following a brief discussion, Rep. Bergene withdrew her motion to table.

A roll call vote was taken on the DO NOT PASS motion, and it failed 9-9. Without objection, the committee reversed its decision on the do not pass motion; but because it was a tie vote, the bill will come out of committee WITHOUT RECOMMENDATION.

ACTION ON HOUSE BILL NO. 366: Rep. Keyser moved that HB 366 DO PASS. The motion was seconded by Rep. O'Hara and discussed.

It was Rep. Addy's opinion that both HB 507 and HB 366 are repealers. The question was called, and a roll call vote taken on the do pass motion. The motion failed 8-10. Without objection, Rep. Brown moved to reverse the vote on a DO PASS motion.

ACTION ON HOUSE BILL NO. 622: Rep. Keyser moved that HB 622 DO PASS. The motion was seconded by Rep. Gould and discussed. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 528: Rep. Addy moved that HB 528 DO NOT PASS. The motion was seconded by Rep. Rapp-Svrcek and discussed.

Rep. Keyser feels the bill is badly written. He gets the impression that there are four or five sections in the bill which are objectional to the committee.

Rep. Hannah agreed that while the intent of the bill is not unreasonable, there are other problems with the bill.

With that the question was called, and the motion carried with Reps. Hannah and O'Hara dissenting.

RE-CONSIDERATION OF HOUSE BILL NO. 366: Rep. Brown moved to reconsider action on HB 366 for the purposes of tabling the bill. The motion was seconded by Rep. Addy. Rep. Keyser stated his strong objection to this motion. The motion to reconsider HB 366 carried 10-8. (See roll call vote.)

Rep. Brown further moved to table HB 366. The motion was seconded by Rep. Addy, and the motion failed due to a tie vote 9-9.

RE-CONSIDERATION OF HOUSE BILL NO. 210: Rep. O'Hara moved that HB 210 be taken off the table. The motion was seconded by Rep. Bergene, and a roll call vote was taken. The motion carried 10-7. (Rep. Miles did not vote.) Further action on HB 210 will take place later.

ADJOURN: A motion having been made and seconded, the meeting was adjourned at 1:00 p.m.

> TOM HANNAH, Chairman

### DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

#### 49th LEGISLATIVE SESSION -- 1985

EXECUTIVE SESSION - 7:00 a.m.

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	<u> </u>		
Dave Brown (Vice Chairman)			
Kelly Addy			
Toni Bergene			
John Cobb			
Paula Darko	<u> </u>		
Ralph Eudaily	. 🗸		
Budd Gould	<u> </u>		
Edward Grady			
Joe Hammond	$\checkmark$		
Kerry Keyser	<u></u>		
Kurt Krueger			
John Mercer	<u> </u>		
Joan Miles			
John Montayne	,	/	
Jesse O'Hara			
Bing Poff			
Paul Rapp-Svrcek	<u> </u>		
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### DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

#### 49th LEGISLATIVE SESSION -- 1985

EXECUTIVE SESSION - 12:20 p.m.

Date <u>2/16/85</u>

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)			
Dave Brown (Vice Chairman)	//		
Kelly Addy			
Toni Bergene	<u> </u>		
John Cobb			
Paula Darko			
Ralph Eudaily			
Budd Gould			
Edward Grady		,	
Joe Hammond			
Kerry Keyser	✓		
Kurt Krueger	, /		
John Mercer	$\checkmark$		
Joan Miles			
John Montayne			
Jesse O'Hara			
Bing Poff	<u></u>		
Paul Rapp-Svrcek	<b>✓</b>		
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				February	16	<sub>19</sub> 95
MR. GREAKER:						
We, your committee o	n	JUD.	iciary			
having had under considera	ition		HOUSE		Bill <b>N</b>	o. 34 <b>1</b>
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STATE PUB. CO. Helena, Mont.

Chairman.

		February 16	1919
MR. SPEA	MER:		
We, your	committee on	JUDICIARY	
having had un	der consideration	:DUSE	Bill No <b>5.7.7</b>
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efine re O compet		TION SERVICE: ALLOW TRANS:	ITION
		vonst	577
		PONSE	Bill No
re amend	ed as follows:		
	5, line 17. g: "ranges"		
Insert:	"sex long as the mini	mum rate is fully compensa	atory"
	11. following line 1 "MEN SECTION. Section anti-competitive act 10 and 13 in any was affects any right, 1	on 15. No preemption of invity. Nothing in [Section of preempts, abrogates, or iability, or obligation as law regarding unfair bus:	ons I through otherwise rising from
Renumb <b>or</b>	supaequent sections.		
and as a	EMMDED.		
DO PASS	•		
	T OF INTENT ATTACESO		
STATE P Helena,		REF. TOM MARNAM	Chairman.

COMMITTEE SECRETARY

#### STATEMENT OF INTENT BILL NO. 577

As stated in the purpose section of the act, it is the legislature to maintain universal the availability 7 basic telecommunications service affordable rates. At the same time, the legislature desires to make available to the general public the rapid advances in telecommunications technology brought about by competition. It is the intent of this act to provide the regulatory flexibility necessary to allow a transition to a competitive market environment in the telecommunications industry.

Under prior law there was no mechanism that would talecommunications utilities to rescond competitive situations. It is the intent legislature that the public service commission now have the authority to permit flexible pricing in those instances where it will promote healthy competition. For exemple, if two telecommunications utilities are effectively competing provide long distance service to a market, the commission may allow those companies to change their rates without commission approval in response to competition. Depending upon the circumstances, the commission may detariff rates for the competitive services or allow the telecommunications utilities to operate within permissible price ranges or implement some other form of regulation that is loss restrictive than total rate regulation.

The legislature intends that the commission retain the power to protect ratepayer interests by totally regulation the rates for telecommunications services that are provided on a monopoly basis. It is intended that the commission be suthorized to examine each service and market to determine . when market conditions rather than total rate regulation can be relied upon to assure that adequate service will be provided at reasonable rates.

It is further intended that the commission authority to take those actions decressry to assure that ravanues from regulated telecommunications services are not used to subsidize nonregulated operations.

It is intended that the commission have authority to adopt rules, if noeded, to develop standards for evaluating market conditions and criteria for determining that detariffing or rate flexibility is appropriate. The commission may also implement, by cule if necessary, such reporting requirements as are required to permit a proper allocation or common or joint costs and investments.

	February 16 19 35
	page 1 of 2
MR. SPEARER:	
We, your committee on	LARY
having had under consideration	HOUSE Bill No.442
reading copy ( SINTED ) color	
EXTEND PATERNITY STATUTE OF LIN	CITATIONS TO CHILD'S RIST YEAR
Respectfully report as follows: That	HCUSS Bill No. 342
. Title, line 6. Collowing: "BROUGHT" Insert: "BY THE CHILD"	
following: "UWVIL" Insert: "2 YEARS AFTER"	
Following: "CHILD" Strike: "BECOHES" through "AGE" on Insert: "ATTAINS THE AGE OF MAJORIT UNTIL 2 YEARS AFTER AN APPL OF THE SOCIAL SECURITY ACT	Y AND BY AM AGMICY OF THE STATE ACATION IS MADE UNDER TITLE IV-0
l. Page 2, line 3. "ollowing: "brought" insert: ": (a) by the child"	
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	(continued)
STATE DUR CO	Chairman.

COMMITTEE SECRETARY

STATE PUB. CO. Helena, Mont.

page 2 of 2 (HB 442)

Following: "than"

Strike: Insert:

3. Page 2, line 4.

Following: "majority"
Insert: ": or (b) by a state agency later than 2 years after the first application is made under Title IV-D of the Social Security Act for services to the child"

AND AS AMENDED, DO PASS

	Februa	ry 16 19 35
SPEASER:		
We, your committee on	DICIARY	
having had under consideration	HOUSE	Bill No.35€
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Respectfully report as follows: That	UCUST	Bill No.165
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**COMMITTEE SECRETARY** 

REP. TOM HANNAU

STATE PUB. CO. Helena, Mont. Chairman.

HOUSE COMMITTEE	JUDICIARY				-		
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HOUSE COMMITTEE	JUDICIARY						
DATE 2/16/85		BILL	NO.	НВ	366	TIME	12:55
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Tom Hannah (C	halrman)						
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Marcene Lynn				Tom Ha	annah		
Secretary			Ch	airma	n		
Motion: Rep	. Brown moved	to t	able	нв 36	66. The mo	tion w	as
seconded by RE	o. Addy, and	the m	otio	n fail	led due to	a tie	vote of
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HOUSE	COMMITTEE	JUDICIARY						
DATE	2/16/85		BILL	NO.	НВ	366	TIME	12:55
NAME					· · · · · · · · · · · · · · · · · · ·	AYE		NAY
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		Pebruary 16	19 85
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STATE PUB. CO. Helena, Mont.	REP. TON MAR		Chairman.

HOUSE COMMITTEE JUDICIARY				
DATE 2/16/85	BILL NO.	HB	507 TIM	E 12:35
NAME			AYE	NAY
Kelly Addy				
Toni Bergene				
John Cobb			,	
Paula Darko			<b>√</b>	
Ralph Eudaily				
Budd Gould				
Edward Grady			/	
Joe Hammond			<u> </u>	
Kerry Keyser				
Kurt Krueger				
John Mercer				
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John Montayne				
Jesse O'Hara			<u> </u>	
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Paul Rapp-Svrcek			Y-/	
Dave Brown (Vice Chairman	)		\	
Tom Hannah (Chairman)			<del> </del>	
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Marcene Lynn		Tom H	annah	
Secretary	Ch	airma	n	
Motion: Rep. Brown moved t	that HB 50	7 DO 1	NOT PASS. The r	notion
was seconded by Rep. Rapp-S	Svrcek. M	otion	failed 9-9.	······································
Without objection, the com	mittee rev	ersed	its decision o	n the
do pass motion, but because	e it was a	tie	vote, the bill	will come
out of committee WITHOUT R	EC OMMENDAT	ION.		

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MR. SPEAKER:				
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COMMITTEE SECRETARY

REP. TOM HANSAH

STATE PUB. CO. Helena, Mont. Chairman.

	February 15	1985
MR. SPEAKER:		
We, your committee on	JUDICIARY	
having had under consideration	ноозе	Bill No622
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	NC N LGER	699
Respectfully report as follows: That	10001	Bill No
DO PASS		
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STATE PUB. CO. Helena, Mont.	REF. TON HAMMAU	Chairman.

		February 16	19.55
md Speaker:			
MR			
We, your committee on	TUDICIARY		
having had under consideration		House	Bill No341
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CIVIL LIABILITY OF PERSON OR ORDER	WAO STOPS	PAYHENT OR CHECK	, DHAFT,
	·		
Respectfully report as follows: That		HOUSE	Bill No 341
og amended as follows:			
i. Page 1, line 23.  Collowing: "payment"  Insert: "when there is no goo  of the goods delivere	d faith di d or servi	ispute as to the '	value
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od as amended, o <u>o.pass</u>			
ANTERNA TOTAL			
STATE PUB. CO. Helena, Mont.	REP.	TON HAMMAN	Chairman.

COMMITTEE SECRETARY

		Fobruary 16	1935
MR. SPEAKER:			
We, your committee on	JUDICI	<i>I</i> kā	
having had under consideration		DUSE	Bill No. 399
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Respectfully report as follows: That			Bill No
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STATE PUB. CO. Helena, Mont.	rep. 109	HAMIAH	Chairman.

	February 16	19 <b>85</b>
MR. SPEAKER:		
W.	JUDICIARY	
We, your committee on		
having had under consideration	House	Bill No. 431
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REQUIRE SHERIFF'S SALE TO BE I	POSTED & PUBLISHED 1 W	EEK BEFORE
Respectfully report as follows: That	HCUSZ	Bill No
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D <del>O P</del> ASS		
STATE PUB. CO. Helena, Mont.	HEP. CON HANNAH	Chairman.

**COMMITTEE SECRETARY** 

		Yebruary 1	<u>19.85</u>
MR	SPFAIDA:		
1/	No your committee on	JUDICIARY	
V	ve, your committee on		•••••••••••••••••••••••••••••••••••••••
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**COMMITTEE SECRETARY** 

STATE PUB. CO. Helena, Mont. REP. TOM HANNAH Chairman.

	Pebruar	<u>y 16 19.55 </u>
MR. SPHAKER:		
We, your committee on	JUDICIARY	
having had under consideration	house	Bill No
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PARTY MULTIPLYING LEGAL	PROCEEDINGS LIABLE FOR IN	CREASED COSTS
Respectfully report as follows: That	HOUSE	Bill No541
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STATE PUB. CO. Helena, Mont.

REP. TOM HAHHAR

	Pe	ebruary 16	1919
GPEAKER:			
We, your committee on	JUDICIARY		
naving had under consideration		n gra Jaka	Bill No535
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REVISE SENTENCE REVIEW DE			
	<i>,</i>		
Respectfully report as follows: That	Acus	<u> </u>	.Bill No5₫5
DO PASS			
STATE PUB. CO. Helena, Mont.	REP. TOM P	ANNAH	Chairman.

HOUSE COMMITTEE JUDICIARY		
DATE February 16, 1985 BILL NO. HB	585 TIME	7:45
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		V
Bing Poff		
Paul Rapp-Svrcek		
Dave Brown (Vice Chairman)		
Tom Hannah (Chairman)		
Marcene Lynn Tom H Secretary Chairma	annah n	
Motion: Rep. Kruegar made a substitute	motion for a DO	NOT PASS.
The motion was seconded by Rep. Addy and	failed 5-12.	
	<u>, , , , , , , , , , , , , , , , , , , </u>	

HOUSE COMMITTEE JUDICIARY		
DATE February 16, 1985 BILL NO. HB 585	TIME	7:47
NAME AYE		NAY
Kelly Addy	/	
Toni Bergene		
John Cobb	/	
Paula Darko \	/	
Ralph Eudaily		
Budd Gould		·V_
Edward Grady		
Joe Hammond	<i></i>	
Kerry Keyser		
Kurt Krueger		
John Mercer		W
Joan Miles 🗸		
John Montayne		
Jesse O'Hara		
Bing Poff	<del></del>	V
Paul Rapp-Svrcek	<del>/_/</del>	
Dave Brown (Vice Chairman)	<u>/</u>	<u> </u>
Tom Hannah (Chairman)	<del></del>	
		<u> </u>
Marcene Lynn Tom Hannah Secretary Chairman		
Motion: Rep. Addy moved a substitute motion to	amend th	e bill
on page 2, line 6 by strking "presumed correct" a	nd inser	ting
"entitled to deference". The motion was seconded	by Rep.	
Kruegar and failed 8-9.	-	

HOUSE C	COMMITTEE	JUDICIARY						
DATE _E	February 1	16, 1985	BILL	NO	HB 58	85	TIME	7:48
NAME				·		AYE		NAY
Kelly	y Addy					•		1
Toni	Bergene							
John	Cobb							
Paula	a Darko							·
	n Eudaily							
	Gould						/	
Edwar	d Grady							
Joe H	Iammond							V
Kerry	/ Keyser							
Kurt	Krueger							
John	Mercer							
<u>Joan</u>	Miles		·					
	ilontayne						<u>,                                      </u>	
	O'Hara					<u></u>		
Bing			·					
Paul	Rapp-Svrc	ek						
		<u> ice Chairman</u>	.)					
Tom H	Iannah (C	Chairman)						
Marce Secreta	ene Lynn ary				om Ha			
Motion:	Rep. 0	'Hara moved	that H	3 585	DO PA	ASS. The I	motion	was
secoi	nded by Re	ep. Gould a	nd car	ried	13-4.			
- Truck You				<del></del>		, , , , , , , , , , , , , , , , , , ,		

HOUSE COMMITTE	E JUDICIARY	<del></del>		<del></del>	_		
DATE 2/16/85		EILL	NO.	HB 2	10	TIME	1:00 p.m.
NAME				····	AYE		NAY
Kelly Addy							1/
Toni Bergene							<b>V</b>
John Cobb							
Paula Darko							
Ralph Eudail	Y					,	
Budd Gould					V		
Edward Grady							
Joe Hammond					1/	,	
Kerry Keyser							
Kurt Krueger						,	
John Mercer							
Joan Miles							
John ilontayne	e						1/
Jesse O'Hara					1/		
Bing Poff							V
Paul Rapp-Sv:	rcek						•
	(Vice Chairman)	)					
Tom Hannah					V		
Marcene Lynn					annah		
Secretary			Cl	nairma	ın		
Motion: Re	ep. O'Hara move	ed to	take	HB 2	10 off the	table.	
The motion wa	as seconded by	Rep.	Berg	gene a	nd carried	10-7.	
	, , , , , , , , , , , , , , , , , , ,					-	
		<del></del>				<del></del>	