

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on February 14, 1991,
at 7:42 a.m.

ROLL CALL

Members Present:

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

Members Excused: Vivian Brooke (D), William Boharski (R)

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

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

EXECUTIVE ACTION ON HB 212

Motion: REP. WYATT MOVED TO RECONSIDER ACTION ON HB 212. Motion
carried 19 to 1 with Rep. Clark voting no.

Motion: REP. WYATT MOVED HB 212 DO PASS.

Motion: REP. WYATT moved to amend HB 212 by removing the
editorial board from the bill.

Discussion: REP. MESSMORE asked if REP. WYATT could explain why she wants to remove it? REP. WYATT said many people have talked with me since this bill left the committee and their first impression was that we applied a censorship and it was not my intent to create one more hoop in terms of freedom of speech. It seems other people who represented the schools have wished to have this bill objected a censorship board.

REP. MESSMORE asked John MacMaster if somebody wants to sue, in this bill, who is liable for suit if there is no clearing house? John MacMaster stated the bill states the school or school district is not liable, civilly or criminally, unless the school official has interfered with or altered the contents of the student instructions. I think the students can be held liable but not the parents.

REP. BROWN said the reason he liked the amendment was because it sets up the school board as a better target for suit from the outside, because we didn't exempt the editorial board from suit and the editorial board would more than likely be composed from most of the administration.

REP. BECKER asked Mr. MacMaster if the teacher or the journalist advisor be liable? Mr. MacMaster said if you could prove slander, for example, the journalism advisor or the teacher took part in the publication of the statement, you could probably hold them liable also. The court may not hold the school or school district liable because of the local government tort agreement.

REP. JOHNSON said I think there is a real necessity to have some sort of control when you are sixteen through thirty years old, you have alot of ideas and you want to change things. That is wonderful because that is the way things get changed. But, I think it should be done with some sort of control.

REP. STICKNEY stated that establishing a board is a perfect target for a suit and I would rather have things in a normal progression as they already are at the schools.

Vote: Motion carried 9 to 8. EXHIBIT 1

Motion/Vote: REP. WYATT MOVED HB 212 DO PASS AS AMENDED. Motion failed 8 to 9. EXHIBIT 2

Motion: REP. BROWN moved to amend HB 212 by inserting "may establish an editorial board".

Discussion: REP. BROWN stated this would make it a permissive board. If the district thinks there is an advantage to that they can do it. I don't think that curtails the activities of the student journalist because ACLU will have a great time suing over this issue whether we pass this bill or not. If the school board steps out of line they will find themselves in court one way or another. With or without this bill. This bill only defines

things a little better. Without this bill, the school boards are going to have a tougher time dealing with this problem than with this legislation which does limit the liability to school boards. Rep. Brown stated that it is in the spirit of both compromise in passing this that he offers the amendment and hopes it will pass and then pass this bill.

REP. WHALEN stated, "We have to keep this bill in perspective. If we do not pass this bill, under the Montana Constitutional Rights these students basically have the same rights adults do in this society. All this is doing is limiting their rights, so they do not need this bill. If we are going to keep putting these amendments on it, what motivation is their to pass it or the students."

Motion: REP. WHALEN MADE A SUBSTITUTE MOTION TO AMEND HB 212 providing that the journalist teacher who works with the students on student paper and year book be charged with the responsibility of oversight with regard to the parameters of this bill.

REP. JOHNSON stated he thought the committee needs to respond to the number of people truly interested in this. "I don't think we have a problem with the two offered amendments. Maybe we should send this to a sub-committee and come back with language we can understand. By making the teacher responsible they are put in a position where he or she doesn't want to make a decision because they can be sued."

REP. BROWN said he would ask the Chairman to consider taking this off the discussion list for the time being and sending it back to Rep. Cohen who wanted to send it back here in the first place. I told him if it came back here it would probably die and we can let him figure out what he wants to do and come back to us with amendments.

REP. WHALEN stated, "We can dispatch of this bill relatively quickly. It is my understanding that there should be some responsible person or board that will take a look at these things. I think the question we have to look at when talking about oversight, is who is in the best position to do that. The journalism teacher who works with the students each and every day is in the best position."

Vote: Motion passed 9 to 8. EXHIBIT 3

Motion/Vote: REP. TOOLE MOVED HB 212 DO PASS AS AMENDED. Motion passed 9 to 8. EXHIBIT 4

Presentation and Opening Statement by Sponsor:

REP. BARNETT, HOUSE DISTRICT 76, stated this bill is an act requiring a court to inform a defendant, who is being arraigned, that if he is not a citizen of the United States, a guilty plea might be result in a deportation from admission in the United States or denial of naturalization under Federal Law. It also amends sections 46-12-202 and 46-12-204 of the Montana Codes Annotated. Section 46-12-202 is on page 2, lines 15-19 and what this does is adds a section to the instructions that the judge would read to the defendant. On page 4, the same wording is inserted in section 46-12-204.

Proponents' Testimony:

Paul Frantz, Attorney from Bozeman, gave written testimony in favor of HB 439. EXHIBIT 5

Thomas A. Olsen, gave written testimony in favor of HB 439. EXHIBIT 6

Michael Sherwood, Montana Trial Lawyers Association, stated we support this bill for the same reasons set forth by Mr. Franz.

Opponents' Testimony: noneQuestions From Committee Members:

REP. RUSSELL asked Mr. Franz are these individuals primarily from Central America? Mr. Franz said they are primarily from all over the world. I know of one from Canada and one from England. It potentially effects any non-citizen, regardless of where they are from.

REP. CLARK asked Mr. Franz are we dealing with all crimes, misdemeanors, felonies of the law? Mr. Franz stated that it depends on the nature of the crime. The Federal law is not exactly clear on that, I can't give you a specific group of crimes.

Closing by Sponsor:

REP. BARNETT stated the main thing this bill is just trying to make the defendant aware of how his or her plea could result in deportation.

HEARING ON HB 420COMPELLED TESTIMONY IMMUNITY IN COMMISSIONER OF INS. PROCEEDINGSPresentation and Opening Statement by Sponsor:

REP. RICE, HOUSE DISTRICT 43, stated this bill is "An act

changing from transactional immunity to use immunity the type of immunity mandated when testimony is compelled in a proceeding held by or under the authority of the commissioner of insurance, allowing the commissioner to in addition grant transactional immunity". This type of immunity granted to an individual is subject to investigation by the auditors office. Right now the auditor can force somebody, during an investigation, to come in and give information and evidence about a particular thing, even if that evidence incriminates that person. The trade off is that person receives automatic immunity from prosecution because he has done this. This bill addresses what kind of immunity that should be.

The securities department would like to change the law saying someone compelled to come in and give testimony would receive use immunity. As law is right now on the insurance side, that person receives transactional immunity. Under transactional immunity, if I am compelled to give information about some particular investigation, I am immune from prosecution from anything to do with that investigation or case. Use immunity is narrower. It says that I should only be immune from prosecution from the things that I myself have given the information and evidence I have presented. This bill says we want the automatic immunity given in these case of only use immunity. The auditor can give transactional immunity in cases where necessary but that grant is not automatic.

I am going to offer an amendment on behalf of the commissioners office addressing a slightly different question than the bill does although I have checked with John MacMaster and Greg Petisch and they both say this amendment can be properly attached to this bill. The amendment addresses a recent court decision that was just handed down and I will allow the proponents to discuss the amendment in detail.

Proponents' Testimony:

Susan Witte, State Auditor, gave written testimony in favor of HB 420 and also submitted a letter from Robert L. Deschamps III, Missoula County Attorney along with the proposed amendment from the commissioners office. EXHIBIT 7, 8, 9

Matt Heffernan, County Prosecutors' Service Bureau, Attorney General's Office, stated we are a Bureau that prosecute cases throughout Montana and we are called in by Local Governments. The CPSB supports HB 440 because it is better law. You have already heard the difference between transactional and use immunity. Use immunity is now favored by the law, particularly by a series of Supreme Court Cases. The reason that it is clearly favored is transaction immunity is more closely tailored to the requirements of the fifth amendment of the constitution. It also brings section 33-1-316 into alignment with the rest of Montana law which favors use immunity.

We suggest an amendment to the bill. On page 2, line 5, following the word prosecution add a comma and then the following language: "after receiving written consent from the prosecutor in whose jurisdiction an alleged offense has occurred". The reason we feel that amendment should be added is that ordinarily the grant of use or transactional immunity is prosecutory cultural. If transactional immunity should be granted in a particular instance it can still be granted. We request that before this be granted, first consult with the prosecutor.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: none

HEARING ON HB 461
DIRECT SUIT AGAINST INSURER

Presentation and Opening Statement by Sponsor:

REP. WHALEN, HOUSE DISTRICT 93, stated this bill remedies a problem that I have dealt with since I first began practicing law. In Montana, we have a rule that reads, rule 17A of Montana Civil Procedure, every action shall be prosecuted in the name of the real party of interest. Essentially what the rule does, is let the fact finder in a particular case, know who all is interested in the outcome of a particular procedure of the court. Unfortunately, that rule has been twisted to mean that an insurance company has the right to control the events of a particular proceeding, pays for that event, but is absent from the proceedings. Often times, the only person having an interest in the outcome, is the defendants insurance company. It is important that the jury knows who all is interested in the outcome of the litigation.

Proponents' Testimony:

Michael Sherwood, Montana Trial Lawyers Association, stated we support this bill for the reasons Rep. Whalen has given.

Opponents' Testimony:

Jacqueline Terrell, American Insurance Association, stated the American Insurance Association opposes this bill. The Montana Rules of Evidence, rule 411, prohibits the use of evidence of liability insurance in any litigation. This is an absolute prohibition. Those rules of evidence that the Montana Supreme Court has adopted are identical to the Federal Board of Evidence. The primary reasons for the exclusion of evidence of insurance are three. One, it is irrelevant; two, it has prejudicial effect; three, it is potential for misuse by a jury. Evidence that is introduced is there for the purpose of proving a dispute

of facts. Insurance is not related in any case to the dispute of facts. As to the prejudicial effect and misuse by jury, damages in any law suit must be calculated on the base of injury that has occurred. It is not to be calculated on the basis of the assets of the defendant. They are directly related to the injury the plaintiff has occurred.

Gene Phillips, Montana National Association of Independent Insurers, stated we strongly oppose this bill because it is not in the best interest of the policy owners of the state of Montana. It will only drive up the cost of insurance as a result. I would remind that the function of the jury is to examine the human facts and they are determined by question of negligence and things such as that, all facts. To bring them the issue of insurance and the amount of insurance simply clouds that and has nothing to do with their task in determining whether there was in fact fault or negligence and the extend of that liability. We urge you to give the bill a do not pass.

Questions From Committee Members:

REP. RICE asked Michael Sherwood if other states have done this? Mr. Sherwood said Louisiana and Florida have direct action suits of one kind or another. Pennsylvania allows a direct action suit by third party.

Closing by Sponsor:

REP. WHALEN stated what we have going on in the courts now, in my estimation, is a charade. The way the charade works is the most powerful entities in this country can hide behind an 82 year old widow for the purpose of refusing to pay this lady in a jury. I don't think any of us purchase insurance with anything but the intent if somebody is injured that insurance policy is made available to assist that person. To allow the insurance companies to continue this charade and hide behind 82 year old widows, in my mind it is wrong and should be changed.

HEARING ON HB 426

IMMUNITY FOR EMERG. MEDICAL CARE IN HOSP. OR PHYSICIAN'S OFFICE

Presentation and Opening Statement by Sponsor:

REP. CROMLEY, HOUSE DISTRICT 94, stated this act was designed in a very small way with concerns of what has been called the obstetrical crisis in the state of Montana. The bill is quite narrow and applies to emergency services. Most of you are well aware what is happening in the state regarding the availability of obstetrical care. Many times physicians will not handle obstetrical cases because of the high cost of insurance for protecting the clinic. Good samaritan law will provide some protection but applies to emergency treatment at the scene of the accident. This bill is an attempt to correct some of the

problems which face expected mother in the state. Usually low income mothers. It would protect the doctor and hospitals from liability for those obstetrical emergencies. It does not protect the doctor or hospital from cases in which the care was negligent. However, it should be enough incentive to encourage those doctors and hospitals facing obstetrical emergencies to render the needed care.

Proponents' Testimony:

Carl Hansen, Administrator - Pondera Medical Center, stated the Pondera Medical Center is a 112 bed hospital and nursing home operated about 60 miles north of Great Falls. I think this bill is important. My intent is not to seek immunity from liability. In Conrad we feel strongly that there is an obligation for a physician and hospital to have adequate liability insurance. At the same time, if we are going to be held liable for it we should have a greater say into what happens between the time of conception and the time of birth. Non-passage of this legislation would drive physicians out of the obstetric department. I hope you keep in mind the feelings we have that the current situation is not quite equitable on part of the provider. We feel the need to cover ourselves with insurance.

Gerald Neeley, Montana Medical Association, stated there are 47 communities in Montana that do have obstetrical services. **EXHIBIT 1.** One of the concerns the Medical Association has in the emergency area is primarily a matter of cesarian section operations that might turn up in a community where approximately a half an hour is available in the onset of an emergency to some event that is disasterous where a physician has to react. In the state of Montana, there are approximately 50 physicians in 22 rural communities to C-sections. So, we have the urban areas which have larger groups of obstetricians and the ability to do c-sections and we have a large number of rural areas that don't have family practitioners that deliver babies, or if they do they don't do c-sections. The problem this bill addresses is that it extends the type of provisions available under the Good Samaritan Law to the emergency room setting. According to the Montana Medical Association, because there is a loss of availability of obstetrical services in the rural communities, we urge that you pass this legislation.

Steve Browning, Montana Hospital Association, stated the Hospital Association has this bill as high priority during this session of the legislature. This is actually a very limited bill that not be confused with the bill heard two years ago. The scope of this bill is considerably limited. When a health care provider is not insured by a particular service they don't provide that service. They can't provide that service. If a health care provider is contacted to provide a particular service to which they are not insured for they will send that patient to someone who will provide that service. We are talking about a very limited

circumstance where you will have expectant mothers who present themselves to a hospital and has had one prior problem in connection with her pregnancy. This bill only deals with that particular situation.

You must understand that in the 22 counties that don't provide obstetrical services, when that mother presents herself to the emergency room, the hospitals will send that mother to the closest nearby hospital that performs obstetrics. This is a situation that is going to occur, we believe, with increasing frequency, as availability obstetrics shrinks, particularly in rural areas. The question you have to ask yourself is who do you want to treat that mother under those circumstances. The people who should speak in favor of this HB would be an organization of women who are going to find themselves in emergency obstetrical situations and want to have qualified health personnel treat them. There isn't an organization like that in the state and if there is, they should be here today speaking in favor of this bill. I urge do pass.

Opponents' Testimony:

Bill Rossbach, Montana Trial Lawyers Association, stated I would like to speak of who I am what kind of practice I have. Mr. Browning was talking about the absence of an organization of women who would come forward and talk about this bill. I have been practicing as a trial lawyers for about 12 years and in those 12 years I have spoken to several thousand people who have called me with the concerns about the medical care they have received. Although people may suggest I have a vested interest. I also speak in the interest of the thousand women or more that have called me concerned about their health care. I have not, obviously, taken on all of those cases. None of the people who have testified as proponents of this bill, have tried a medical negligent case to a Montana jury and understand Montana Juries have very tough standards for a plaintiff to be successful in these cases. The track record in Montana is there have only been 8 or 9 successful verdicts in the entire history in Montana against health care providers.

This bill speaks to a great degree about the problem in rural areas to the fact that you cannot or decided not to have liability insurance for obstetrics. The problem with the bill is that it doesn't limit itself to rural areas and it's description of emergency includes doctor's offices, all kinds of areas that are much broader than usual emergency situations they speak about. The situation we are talking about is that a physician feels they are held to an extremely high standard of specialism such as obstetrics. I suggest that the standard of care of a doctor who is faced with one of these emergency situations is essentially a gross negligence standard. These doctors who have never seen the patient before, who have no prior history and don't know what their circumstances are, are not held to the same standard as a doctor who has been treating this patient all

along. There is a different standard already. I think it is a problem on the part of the doctor and not a real problem. If we want to address the problem we can create a narrow situation where we specifically define that a doctor facing an emergency situation, then they would be held to the standard as that same person in those circumstances. My problem is with the question of the standard of care. I urge you to reject this bill.

Michael Sherwood, Montana Trial Lawyers Association, gave written testimony opposing HB 426. EXHIBIT 10

Kate Chowela, Montana Women's Lobby, stated we oppose obstetric liability. We don't feel it is in the best interest of women. It discriminates against women allowing women a lower quality level of care than we require for men. Especially for low-income women and rural women denied that access to prenatal care. This bill allows the act to be grossly negligent before being determined to be negligent at all. If this bill passes Montana women are not protected from negligence and should be protected from any level of negligence.

Questions From Committee Members:

REP. WHALEN asked **Mr. Rossbach** when he was talking about the situation of the emergency medical situation this bill address and my concern, correct me if I am wrong, is all liability, including simple negligence. It appears to me, if you are in an emergency situation and you haven't had the opportunity to be looking at this woman during the course of her pregnancy and you see her for the first time in an emergency situation, your foreseeability to do something you do might hurt her is limited and therefore be no liability. Could you please address that?

Mr. Rossbach said that is essentially the case. I see it more from the point of view of duty than foreseeability and there are two sides of the same coin. Basically, a doctor who is faced with an unusual emergency situation is only held to the standard someone in that same or similar emergency. In other words, he is not held to the standard of a doctor who has treated that patient whose knows what the prior history is or foresee, as you say, all of the aspects of her care. That doctor is faced with a much more difficult judgement to make about that patient.

REP. STICKNEY asked **Mr. Browning** since the Trial Lawyers have implied that a large hospital wouldn't have a deep enough pocket to withstand these kinds of concerns that this bill address and have suggested it is not only a rural bill, would you consider limiting it to solely address the problem in rural areas? **Mr. Browning** said the Hospital Association and the suggested legislation is primarily concerned about the rural areas and we do think if the health crisis continues to weaken within the state and throughout the nation, that we are going to have increasing instances of expectant who have not had prenatal care. I can tell you if someone wants to restrict this to the 22 counties not providing obstetrical care, I would not have any

objection to that. I think we will have to address this issue again in the future as the situation changes.

REP. JOHNSON stated to Mr. Rossbach that all three of the proponents of this bill suggested that patients under this particular situation would receive a lower standard of care, is that a correct statement? Mr. Rossbach said no, I don't believe they would receive a lower standard of care, but rather the doctor we held to the lower standard of care. I don't think anyone suggested that this mean that women would get lower care.

Closing by Sponsor:

REP. CROMLEY stated we had a good hearing and I urge the committee to pass this bill.

HEARING ON HB 546

ALLOWING VICTIMS OF FELONY OFFENSES TO MAKE SENT. RECOMM.

Presentation and Opening Statement by Sponsor:

REP. LARSON, HOUSE DISTRICT 65, this bill is an act to protect the right of victims in felony cases by permitting victims to make sentencing recommendations to the court once the court has advised victims of the possible penalties for a given felony offense. This is a victims right bill. I saw this type of sentencing in the Canadian law system. If you allow a victim be involved in the sentencing, you have an returning effect of crime. The situation in our courts is that the victim is removed from the sentencing procedure. I am suggesting by this proposal, that we expand the victims rights to make recommendations to the court.

Proponents' Testimony: none

Opponents' Testimony:

Paul Johnson, Attorney General's Office, stated I am appearing as an opponent, but I would like to explain that the Attorney General's office is very much in favor of victim rights. This particular bill waves a red flag for us. The U.S. Supreme Court has a general proposition in the sentencing of criminals. The sentences results should be on the individuals potentials, his defects, and the circumstances of his crime and matters directly related to the circumstances of his crime. This bill raises some concerns because it seems broad and open enough that other kinds of information could be placed before the sentencer that could result in the sentence being given for arbitrary reasons or for reasons that are not specifically focused on the individual being sentenced and circumstances of his crime. It becomes a particularly difficult task in death penalty cases and capital litigation. This bill has the potential to open up alot of difficulty in sentencing of a defendant.

Questions From Committee Members: none

Closing by Sponsor:

REP. LARSON stated Montana has a long history of citizen involvement in sentencing procedure. It is not necessary that we involve ourselves with criminals. This particular reasoning would apply to the majority of cases white collar crimes. It is merely permitting the victim to have more involvement in the sentencing. I urge you to look at the intent of the bill and give it a do pass.

EXECUTIVE ACTION ON HB 546

Motion: REP. MEASURE MOVED HB 546 BE TABLED. Motion passed 15 to 5 with Rep's: Whalen, Johnson, Lee, Clark and Boharski voting no.

EXECUTIVE ACTION ON HB 319

Motion: REP. TOOLE MOVED HB 319 DO PASS.

Motion: REP. TOOLE moved to amend HB 319 by deleting probation in section 4, page 4, line 22 and inserting "probation or".

Discussion: REP. MEASURE stated on page 2, line 10, it says everything is provided except for medical care. It has been my experience that counties are supposed to provide the minimal medical care that some incarcerated people need, especially over the long term. Who pays the cost of the medical needs of the person incarcerated? REP. TOOLE said the choice to maintain medical care is a problem. We are asking the counties to pick up the tab.

Vote: Motion passed unanimously.

Motion: REP. TOOLE moved to amend HB 319 and asked John MacMaster to explain the amendment for the committee.

Discussion: John MacMaster said on page 16, line 12, after "under" insert "46-18-236 (1) (a) and" then following "(2)" insert "of this section". On page 16, line 16, strike ";" and insert a period. Also on page 16, line 17, after "(b)" insert "The county treasurer shall, in the manner provided in 15-1-504, distribute".

Vote: Motion passed unanimously.

Motion: REP. MEASURE moved to amend HB 319 by putting a period after services on page 2, line 10 and deleting the balance of line 10 and all of line 11.

Discussion: REP. BROOKE stated she understood what Rep. Measure's concern is, but I also have a concern and I think it would be unwise of us to try to put all of the needs of the inmates in this bill. I oppose the amendment.

REP. WHALEN stated he supports the amendment.

Vote: Motion failed.

Motion: REP. JOHNSON moved to amend HB 319 by creating different funding. Motion fails 7 to 11. EXHIBIT 11

Motion: REP. TOOLE MOVED HB 319 DO PASS AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB 320

Motion: REP. BROOKE MOVED HB 320 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 420

Motion: REP. RICE MOVED HB 420 DO PASS.

Discussion: REP. RICE stated the bill is trying to bring the insurance code into some consistency to security facilities in regard to use and transaction immunity.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON HB 466

Motion: REP. BROWN MOVED HB 466 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 493

Motion/Vote: REP. BROOKE MOVED HB 493 DO PASS. Motion carried 11 to 8. EXHIBIT 12

EXECUTIVE ACTION ON HB 461

Motion: REP. WHALEN MOVED HB 461 DO PASS.

Discussion: REP. WHALEN stated that this bill deals with a real problem and we need to pass it out of this committee.

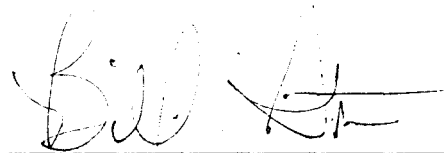
Vote: Motion failed 9 to 11. EXHIBIT 13

Motion/Vote: REP. RICE moved to amend HB 461 by applying this bill to vehicular accidents only. Motion passed 16 to 4 with Rep's: Whalen, Johnson, Boharski, and Keller voting no.

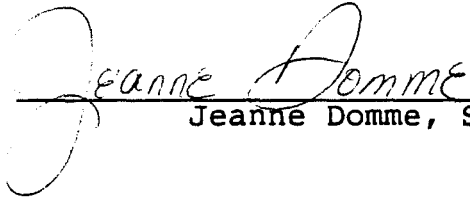
Motion/Vote: REP. WHALEN MOVED HB 461 DO PASS AS AMENDED. Motion carried 11 to 9. EXHIBIT 14

ADJOURNMENT

Adjournment: 10:45 A.M.



BILL STRIZICH, Chair



Jeanne Domme, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 2-14-91


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

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 319 (first reading copy -- white) do pass as amended .

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Page 4, line 22.

Strike: "probation or"

2. Page 16, line 11.

Following: "(3)"

Insert: "(a)"

3. Page 16, line 12.

Following: "under"

Insert: "46-18-236(1)(a) and"

Following: "(2)"

Insert: "of this section"

4. Page 16, line 14.

Strike: line 14 in its entirety

5. Page 16, line 16.

Strike: ";

Insert: "."

6. Page 16, line 17.

Following: "(b)"

Insert: "The county treasurer shall, in the manner provided in 15-1-504, distribute"

2:35

2-14-91


JDB

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 420 (first reading copy -- white) do pass.

Signed: 
Bill Strizich, Chairman


2:35
2-14-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 493 (first reading copy -- white) do pass.

Signed: 

Bill Strizich, Chairman

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 461 (first reading copy -- white) do pass as amended.

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "BY"

Insert: "MOTOR VEHICLE LIABILITY INSURANCE SOLD BY"

2. Page 1, line 13.

Following: "defendant's"

Insert: "motor vehicle liability"

3. Page 1, line 16.

Following: "by"

Insert: "motor vehicle liability"

4. Page 1, line 19.

Following: "coverage of the"

Insert: "liability"

EXHIBIT 1
DATE 2-14-91
HB 212

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14-91 BILL NO. HB #212 NUMBER 1

MOTION: Rep. Wyatt motion to remove Editorial board
from the bill.

PASSED

NAME AYE NO

REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	/	
REP. WILLIAM BOHARSKI	/	/
REP. DAVE BROWN		/
REP. ROBERT CLARK		/
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE	/	/
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON	/	/
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	9	8

EXHIBIT 2
DATE 2-14-91
HB 212

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14-91 BILL NO. HB #212 NUMBER 2

MOTION: Wyatt: Move DO PASS AS AMENDED

Fails

NAME AYE NO

REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER		/
REP. WILLIAM BOHARSKI	/	/
REP. DAVE BROWN		/
REP. ROBERT CLARK		/
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE	/	/
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON	/	/
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	8	9

EXHIBIT 5
 DATE 2-14-91
 HB 212

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14 BILL NO. HB#212 NUMBER 3

MOTION: Whalen motion to put the responsibility
of liability on the Journalism teacher who works
with the students for oversite in regards to the
parameter of the bill - (Lang. by J.M.)

NAME PASSED AYE NO

REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	/	
REP. WILLIAM BOHARSKI		
REP. DAVE BROWN		/
REP. ROBERT CLARK		/
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE		
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON		
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	9	8

EXHIBIT 4DATE 2-14-91HB 212

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14 BILL NO. HB 212 NUMBER 4MOTION: Took motion OPAPASSED

NAME AYE NO

REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	/	
REP. WILLIAM BOHARSKI		
REP. DAVE BROWN		/
REP. ROBERT CLARK		/
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE		
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON		
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	9	8

COMMENTS IN SUPPORT OF HOUSE BILL 439
BEFORE THE HOUSE JUDICIARY COMMITTEE

STATE OF MONTANA

February 14, 1991

I appear before you today to testify in support of House Bill 439. This bill would require courts in Montana to inform criminal defendants, at the time of entering a plea, that if the criminal defendant is not a citizen of the United States, a guilty plea might result in deportation from or exclusion from admission to the United States or denial of naturalization under federal law. This bill would amend MCA Sections 46-12-202 and 46-12-204 by adding this obligation to the list of information required to be given by a judge before accepting a plea of guilty.

This proposed legislation would ensure that non-citizens have the opportunity to seek legal advice regarding potential immigration consequences of their pleas prior to the time of entering the pleas. This procedural safeguard is needed because cases may arise in which non-citizens enter pleas for offenses completely unaware that they may be deported, be excluded from admission to the United States, or be denied naturalization as a result of their plea. This is especially important because some criminal offenses may appear minor, yet still may have immigration consequences.

No matter what the nature of a criminal conviction, a non-citizen should not face the harsh penalty of deportation, exclusion from admission, or denial of naturalization without the benefit of adequate legal advice. In Montana, since we have a small non-citizen population, many criminal defense attorneys may be unaware of the immigration consequences of the entry of a guilty plea by a non-citizen.

In many situations involving minor criminal charges, many individuals may not seek the advice and aid of an attorney. Rather, they simply appear in court on an appointed day and enter their plea without counsel. These individuals are especially at risk if the courts do not advise them that there may be immigration consequences of their plea.

Deportation, exclusion from admission to the United States, or denial of naturalization are all such harsh results potentially stemming from entry of a guilty plea that non-citizens should be made aware that certain immigration

EX. 5
2-14-91
HB 439

consequences may result. While there exist several consequences that result from entry of a guilty plea, no consequence is as harsh as permanent exclusion from the United States.

This legislation is necessary to guarantee constitutional protection for those non-citizens appearing in our Montana courts. It would promote fundamental fairness and justice with little burden placed on judges.

Similar provisions are now part of the law in at least nine other states, including California (California Penal Code Section 1016.5); Connecticut (Connecticut General Statutes Section 54-1j); Hawaii (Hawaii Revised Statutes Sections 802E-1 through E-3); Massachusetts (Massachusetts General Laws Chapter 278 Section 29D); North Carolina (North Carolina General Statutes Section 15A-1022(a)); Ohio (Ohio Revised Code Annotated Section 2943.03.1), Oregon (Oregon Revised Statutes, Section 135.385); Texas (Texas Code of Criminal Procedure Article 26.13(a)(4)); and Washington (Washington Revised Code Section 10.40.200).

Thank you very much for your consideration.



Paul L. Frantz
Attorney at Law
P.O. Box 1168
Bozeman, Montana 59771-1168
Phone (406) 586-4311

THOMAS A. OLSON
DISTRICT JUDGE

STATE OF MONTANA

COLLEEN EAYRS-JOHNSON
CSR, RPR COURT REPORTER



EXHIBIT

6

DATE

2-14-91

HB

439

DISTRICT COURT
February 13, 1991
EIGHTEENTH JUDICIAL DISTRICT
DEPT. NO. 1

House Judiciary Committee
State Capitol Building
Helena, MT 59620

RE: House Bill 439

Dear Members of the House Judiciary Committee:

I support HB 439 which would amend §§ 46-12-202 and 46-12-204, M.C.A. It would require a judge to advise a criminal defendant who is not a U.S. citizen that a consequence of a guilty plea might be his/her deportation. This requirement is not an unreasonable burden on a judge, and is only fair.

I applaud the individuals who introduced this bill for taking an active interest in safeguarding and clarifying an accused's fundamental right to due process.

Very truly yours,

A handwritten signature in cursive script, reading "Thomas A. Olson".

Thomas A. Olson
District Judge

TAO/sat

Testimony on House Bill 420, "Immunity" DATE 2-14-91
Susan C. Witte, Chief Legal Counsel, State Auditor's Office
House Judiciary, February 14, 1991 HB 420

For the record, my name is Susan C. Witte. I am the Chief Legal Counsel for the State Auditor's Office, and am here today representing State Auditor Bennett, who also serves as the Commissioner of Insurance and the Commissioner of Securities. I would like to thank our sponsor, Representative Rice, for carrying this bill for the Auditor and the Committee for its consideration of this legislation.

We urge passage of this bill, with the proposed amendments, which affect the immunity provisions of both the Insurance and Securities statutes.

The bill as originally introduced was written to change the grant of immunity used by the Commissioner of Insurance from "transactional" immunity to "use" immunity. The need for this bill was suggested by the Attorney General's office which prosecutes both Insurance and Securities Department criminal referrals.

For background definition, transactional immunity applies in a situation where the person providing evidence, for example, in response to a lawfully issued subpoena, cannot be criminally prosecuted for his participation in any of the events about which he gives testimony. Use immunity, on the other hand, allows prosecution for those events but the evidence that the witness has given cannot be used against him. With transactional immunity, the witness cannot be prosecuted for events related to his testimony. It's an extremely broad grant of immunity. Let's say the Insurance Department has discovered that a licensed agent has forged a number of insurance applications for people who are already insured. Forging applications is a violation of Montana's Insurance Code and can subject an agent to administrative fines and loss of his license. The Insurance Department brings an administrative action against the agent for license revocation. A subpoena is issued in conjunction with the license revocation proceeding for the insurance applications. The Insurance Department is forced to seek subpoena enforcement from the District Court when the agent refuses to comply and the Court compels him to comply and produce the documents. The Insurance Department ends up proving its license revocation case and takes his license for forgery of applications. Later, it's independently discovered - maybe from an insured who thought he had a valid policy all along - that the agent has in fact been stealing premiums his clients have paid on actual policies. Under transactional immunity, since the agent was compelled to testify, he can't be pursued criminally for the theft of premiums because the grant of immunity affects the entire "transaction" which is the agent's policy sales. Use immunity, in this situation, would allow prosecution of the agent for theft of the policy premiums because he did not testify to the same - he only testified or produced those forged applications.

This change brings the Insurance Code into conformity with other administrative statutes which were amended in 1983 to reflect changes in the federal system; to wit, the Securities Act and the Unfair Trade Practices and Consumer Protection

statutes administered by the Department of Commerce.

2-14-91

HB 420

Now - the amendments. They affect both insurance and securities. As I earlier mentioned, the State Auditor serves as the Insurance Commissioner as well as the Securities Commissioner and is charged with enforcement of the Montana Securities Act found at 30-10-101, et seq., MCA. The amendments require a witness to assert his privilege against self-incrimination before immunity would attach. This requirement is not clearly set forth in the statutes as they now read. In a very recent securities case where the defendant was suspected of sales of unregistered securities, the Montana Securities Department had served defendant's corporation with a subpoena for production of documents. The documents were subsequently surrendered in response to this subpoena. The Missoula County Attorney later filed criminal securities charges against the defendant. Defendant filed a motion to dismiss based partially on what he perceived as an absolute grant of immunity for his response to the administrative subpoena. In his order denying the motion to dismiss, Judge Henson of the Fourth Judicial District Court, Missoula County, implied that had the subpoena been issued to an individual rather than a corporation, the individual may have been immune from prosecution. If this amendment had been effective at the time of the administrative subpoena, the defendant's response to the subpoena without assertion of his self-incrimination privilege would have been construed as a waiver of that privilege. You have before you copies of a letter from Dusty Deschamps, the Missoula County Attorney, who suggested this amendment and has written to express his support of it.

We ask for your favorable consideration of HB 420 with the Auditor's amendments. I, Melissa Broch, counsel for the Securities Department, or Robyn Young, the Deputy Securities Commissioner, will try to answer any questions you may have. Matt Heffron of the Attorney General's Office is also here today to testify in support of this bill.

Feb 13, 91 17:23 No.004 P.02

MISSOULA
COUNTYROBERT L. DESCHAMPS, III
COUNTY ATTORNEY
200 W. BROADWAY
MISSOULA, MONTANA 59802

(406) 721-5700

February 13, 1991

EXHIBIT 8DATE 2-14-91HB 420Rep. Bill Strizich
Chairman, House Judiciary Committee

RE: State Auditor's Proposed Amendments to H.B. 420

Dear Bill,

I strongly support the Auditor's proposed amendments to H.B. 420 which would clarify the immunity provisions contained in the Montana Securities Act. The provisions in question were amended a session or two ago as an adjunct to a bill which was primarily intended to allow County Attorneys to grant both use and transactional immunity in criminal investigative subpoena proceedings. In the process the immunity provisions in other subpoena proceedings were also amended. Unfortunately, the amendments to the securities regulation statute didn't read quite like they should have, and now the statute can arguably be read to automatically grant immunity to anyone who responds to a State Auditor's administrative subpoena, whether the subpoenaed person asks for immunity or not.

This created a substantial problem in a recent 27 count criminal case in Missoula, State v. Schlappy. Fortunately we were able to get around it in that case, but might not be so lucky the next time. The proposed amendments will correct the statute to read properly and should be enacted.

Sincerely,

Robert L. Deschamps III
Missoula County Attorney

RLD/gkm

Amendments to House Bill 420
Introduced Bill Copy
Submitted By The State Auditor

EXHIBIT 4
DATE 2-14-91
HB 420

1. Title, line 9.

Following: "IMMUNITY;"

Insert: "REQUIRE ASSERTION OF PRIVILEGE AGAINST
SELF-INCRIMINATION IN PROCEEDINGS BEFORE EITHER THE
COMMISSIONER OF INSURANCE OR THE COMMISSIONER OF SECURITIES;"

2. Title, line 9.

Strike: "SECTION"

Insert: "SECTIONS 30-10-304 AND "

3. Page 2, line 1.

Strike: "compelled"

Insert: "no"

4. Page 2, line 1.

Following: "evidence"

Insert: "compelled after the witness claims his privilege
against self-incrimination"

5. Page 2.

Following: line 12.

Insert: Section 2. Section 30-10-304, MCA, is amended to
read:

"30-10-304. Investigations and subpoenas. (1) The
commissioner in his discretion may:

(a) make such public or private investigations or
examinations within or without this state as he deems
necessary to determine whether any registration should be
granted, denied, or revoked or whether any person has
violated or is about to violate any provision of parts 1
through 3 of this chapter or any rule or order hereunder or
to aid in the enforcement of parts 1 through 3 of this
chapter or in the prescribing of rules and forms hereunder;

(b) require or permit any person to file a statement in
writing, under oath or otherwise as the commissioner may
determine, as to all the facts and circumstances concerning
the matter to be investigated; and

(c) publish information concerning any violation of parts 1
through 3 of this chapter or any rule or order hereunder.

(2)(a) For the purpose of any investigation or proceeding
under parts 1 through 3 of this chapter, the commissioner or
any officer designated by him may administer oaths and
affirmations, subpoena witnesses, compel their attendance,
take evidence, and require the production of any books,
papers, correspondence, memoranda, agreements, or other
documents or records which the commissioner deems relevant or
material to the inquiry.

(b) The commissioner may issue and apply to enforce
subpoenas in this state at the request of a securities agency
or administrator of another state if the activities
constituting an alleged violation for which the information
is sought would be a violation of the Securities Act of
Montana if the activities had occurred in this state.

(3) In case of contumacy by or refusal to obey a subpoena
issued to any person, any court of competent jurisdiction,

upon application of the commissioner, may issue to that person any order requiring him to appear before the commissioner or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as contempt of court.

(4) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture, ~~but~~. However, no compelled testimony or evidence compelled after the witness claims his privilege against self-incrimination or any information directly or indirectly derived from such testimony or evidence may be used against the witness in any criminal case. Nothing in this section prohibits the commissioner from granting immunity from prosecution for or on account of any transaction, matter, or thing concerning which a witness is compelled to testify if the commissioner determines, in his sole discretion, that the ends of justice would be served thereby. Immunity may not extend to prosecution or punishment for false statements given pursuant to the subpoena.

(5) The office of the securities commissioner is a criminal justice agency as defined in 44-5-103.

Renumber: subsequent section.

Ex. 9
2-14-91
HB 420

EXHIBIT 10
DATE 2-14-91
HB 426

Testimony of Michael Sherwood
MTLA
Opposing: HB 426

This is the third of three House Bills that this committee has seen whereby a special interest business or industry asks to be treated differently than all other businesses in the state. As with House Bill 303 (the 911 Bill) and House Bill 364 (the equine activities) bill it is purported to solve a problem for a very few people in only limited instances, but in fact protects very large business interests in a wide scope of instances.

This bill should be rejected by this committee for three reasons:

1. Obstetrics can, and usually is, be big business. Figures testified to in House Business the other day indicate that the major hospitals in this State each do tens of millions of dollars in business per year. Insurance is readily available to those hospitals and the doctors who practice in them.

2. If the purpose of this bill is to address a shortage of doctors delivering babies in rural areas, then it is a poor solution. Better solutions were proposed in 1989 and rejected by the medical community. Rep. Marion Hansen proposed a bill to give rural doctors a tax credit to pay for malpractice premiums due to obstetrics. We supported that bill. The MMA opposed it. They went so far as to label it a Trial Lawyer's Bill. It was not, but through the lobbying efforts of the MMA it died on the table. Senator Halligan offered to revive that language in a special committee bill that would have granted an affirmative tax break so as to allow full recovery for obstetrical premiums. Again, this was rejected by the MMA.

3. If the purpose is to reduce malpractice premiums, then it is again a poor and, at best, cumulative remedy. The medical industry already enjoys protections not shared by any other business or industry. A special panel has been established to screen law suits. It was established in 1977 through the joint efforts of the medical community and the State Bar. This year's 1989 summary report, prepared by Gerald Neely, states:

a. the frequency of claims against physicians has been substantially lower in Montana than in other states.

b. a smaller proportion of claims end in lawsuits now than before the panel was initiated.

c. the rate of lawsuits which results from claims in Montana is significantly lower than nationwide surveys of the same data.

A survey completed by the State Bar has shown that the jury system has been very good to the medical community in this state. The awards of damages have been infrequent and modest.

4. Finally it treats a pregnant woman in a crisis situation differently than any other medical patient. Discriminatory

ex. 10
2-14-91

HB 426

treatment of women as a class is a poor way to cure social or economic ills. A pregnant woman, and her unborn child, like all other citizens of this state not only deserve health care, but deserve quality health care.

Please reject this bill.

EXHIBIT 11
DATE 2-14-91
HB 319

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14-91 BILL NO. HB#319 NUMBER 1

MOTION: Johnson motion to amend for creating
bill funding
Fails

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR		—
REP. ARLENE BECKER	—	
REP. WILLIAM BOHARSKI	—	
REP. DAVE BROWN	—	
REP. ROBERT CLARK	—	
REP. PAULA DARKO		—
REP. BUDD GOULD	—	—
REP. ROYAL JOHNSON	—	
REP. VERNON KELLER	—	
REP. THOMAS LEE		—
REP. BRUCE MEASURE	—	
REP. CHARLOTTE MESSMORE		—
REP. LINDA NELSON		—
REP. JIM RICE		—
REP. ANGELA RUSSELL		—
REP. JESSICA STICKNEY		—
REP. HOWARD TOOLE		—
REP. TIM WHALEN	—	
REP. DIANA WYATT		—
REP. BILL STRIZICH, CHAIRMAN		—
TOTAL	7	11

EXHIBIT 10
DATE 3-14-91
HB 493

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14 BILL NO. HB # ~~466~~ 493 NUMBER

MOTION: Brooke move O.P.

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

EXHIBIT 13
DATE 2-14-91
HB 461

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14-91 BILL NO. HB 461 NUMBER

MOTION: Whalen: DO PASS

FAILED

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

EXHIBIT 14
DATE 2-14-91
HB 461

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-14-91 BILL NO. HB 461 NUMBER _____

MOTION: Rep Whalen - OPA

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HB# 439
DATE 2-14-91 SPONSOR(S) Rep. Bennett

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Paul Frantz, 206 S. 15th #23 Bozeman, MT 59715		X	
Michael J. Sherwood	MTLA	✓	

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary
DATE 2-14-91

COMMITTEE

SPONSOR(S)

Rep. Rice

BILL NO.

HB#420

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robyn Young	Securities Dept/st. Auditor	x	
Melina Broch	State Auditor	x	
Suzanne Witz	State Auditor	+	

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary

COMMITTEE

BILL NO.

HB#461

DATE 2-14-91

SPONSOR(S)

Rep. Whalen

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Heather Robbins</u>	<u>MUSS. Valley Dev. Corp</u>		<input checked="" type="checkbox"/>
<u>Jacqueline Jervell</u>	<u>Am. Ins. Assoc.</u>		<input checked="" type="checkbox"/>
<u>R. Whitman</u>	<u>State Farm Ins.</u>		<input checked="" type="checkbox"/>
<u>GENE PHILLIPS</u>	<u>NAT. ASSOC. IND. INSURERS</u> <u>ALLIANCE AMER. INSURERS</u>		<input checked="" type="checkbox"/>
<u>Tom Ramboldt</u>	<u>FARMERS Ins. Group</u>		<input checked="" type="checkbox"/>

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary

COMMITTEE

BILL NO.

HB#426

DATE

2-24-91

SPONSOR(S)

Rep. Rice

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gerald J. Neely	Montana Medical Assoc.	✓	
Carl Hanson	Pondera Medical Center	✓	
Michael J. Sherwood	MTLA		✓
BILL ROSSBACH	MTLA		✓
Steve Browning	Montana Hospital Assn	✓	
Brian Linc	Montana Medical C. Assn	X	
Kate Cholewa	MT Womens Lobby	✓	X
Dean Sands	MT Women Lobby		X

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary

COMMITTEE

BILL NO. HB# 546

DATE 2-14-91

SPONSOR(S) Rep. Larson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Paul Johnson ^{215 Helms} Sanders	Attorney General		<input checked="" type="checkbox"/>

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