

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on April 1, 1991, at 10:25 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: David Rye (R)

Staff Present: Valencia Lane (Legislative Council).

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

Announcements/Discussion: Senator Mazurek announced that the Subcommittee would need to meet to discuss SB 427 before executive action could be taken on the bill.

EXECUTIVE ACTION ON HOUSE BILL 668

Motion:

Discussion:

Amendments, Discussion, and Votes:

Valencia Lane advised the Committee that SB 398 allows community service, but would be changed by HB 668, and that the coordination instruction allows community service in both bills for under 18 and over 18 age groups (Exhibit #1).

Senator Towe made a motion that the coordination instructions be approved. The motion carried unanimously.

Recommendation and Vote:

Senator Svrcek made a motion that HB 668 BE CONCURRED IN AS AMENDED. The motion carried unanimously. Senator Svrcek was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 735**Motion:****Discussion:****Amendments, Discussion, and Votes:**

Senator Towe explained his amendments and the gray bill (Exhibit #2). He said language was added on page 3, line 20, which came out of summary judgment language.

Senator Mazurek asked if the amendment really meant to state "imminent". Valencia Lane replied it did, and said it was meant to address expenses soon to be incurred which were both reasonable and necessary.

Senator Towe made a motion that the amendments be approved, and said it should read, "incurred, imminent, reasonable and necessary".

Valencia Lane stated that her understanding of imminent is, "should promptly pay expenses which have been incurred or will soon be incurred".

Senator Mazurek said he was told there would be a compromise on this. Chairman Pinsoneault advised Senator Mazurek that didn't work out.

Senator Towe's motion to amend HB 735 carried unanimously.

Senator Towe further advised the Committee that he also put in the Collateral Source Rule to try to make it less objectionable. He made a motion to approve this language, which failed 6-6 in a roll call vote (attached).

Senator Towe asked for time to work on the bill. Senator Brown commented that he believes the bill should pass, but knows that it needs work.

Recommendation and Vote:

Senator Harp made a motion that HB 735 be TABLED. The motion carried 9-3 in a roll call vote (attached).

EXECUTIVE ACTION ON HOUSE BILL 773

Motion:

Discussion:

Amendments, Discussion, and Votes:

Valencia Lane advised the Committee that the amendments would return statute to its original state with the exception of removing all reference to examination (Exhibit #3).

Senator Halligan commented that people are read their rights when they are picked up.

Senator Halligan made a motion to approved the amendments and to strike "ONLY" from the title. The motion carried unanimously.

Recommendation and Vote:

Senator Halligan made a motion that HB 773 BE CONCURRED IN AS AMENDED. The motion carried unanimously. Senator Halligan was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 417

Motion:

Discussion:

Amendments, Discussion, and Votes:

Valencia Lane reported that the amendments requested by Representative Elliott at the hearing are fine. She said the ACLU amendments would have created civil remedy.

Senator Halligan made a motion to approve Representative Elliott's amendments. The motion carried unanimously.

Chairman Pinsoneault commented that unorganized militias could be addressed on the Senate Floor if the Committee deems it important. Senator Towe replied that it is in the Constitution.

Recommendation and Vote:

Senator Svrcek made a motion that HB 417 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 776

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Halligan stated that he received calls on this issue much of the time at the Missoula County Attorney's Office.

Senator Mazurek said he believes some balance is necessary, and that 30 days is too soon. He said that if there is no paper in a county, the notice would be put into another paper.

Senator Towe said he wanted to address certified notices being returned unclaimed. He suggested inserting "in the event certified mail is undeliverable, civil procedure rule 4 would apply" wherever "certified mail" appears in the bill. Senator Towe stated this means that if actual notice can't be delivered to the owner of the storage contents, it will be publicized.

Senator Mazurek asked who proceeds are paid to in subsection (4). Senator Towe suggested inserting "owner or other person entitled to the proceeds and, if there be none, then the proceeds will go to the state", following "paid to" in subsection (4) of the bill.

Senator Mazurek suggested inserting, "newspapers of general circulation in the county", following "published in ". He asked for written amendments for executive action on Tuesday, April 3, 1991.

Senator Yellowtail asked that language be added to require 30 consecutive days.

Recommendation and Vote:

The Committee delayed action on HB 776 pending drafting of amendments.

EXECUTIVE ACTION ON HOUSE BILL 414

Motion:

Senator Doherty made a motion that HB 414 BE CONCURRED IN.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

Senator Svrcek made a substitute motion that HB 414 BE TABLED. The motion carried with all members voting aye except Senator Doherty who voted no.

EXECUTIVE ACTION ON HOUSE BILL 942

Motion:

Discussion:

Amendments, Discussion, and Votes:

Valencia Lane reported that amendments were prepared for Senator Towe by David Niss in his capacity as JAG Officer and with permission, since Mr. Niss is also employed by the Legislative Council (Exhibits #4 and #5).

Senator Towe made a motion to approve the amendments in Exhibit #5 (hb094202.avl). The motion carried unanimously.

Senator Towe explained the amendments in Exhibit #4 (hb094201.avl), and said current statutes are good, but JAG Officers suggest that if the short-form power of attorney is in statute there is no question of acceptance. He said the advantage is that items A-O can be checked on the form. Senator Towe told the Committee he had no strong feelings personally on this issue.

Senator Towe said Sections 2-16 describe what each item means, and commented that he is a little ambivalent on this, as he believes it will "junk up" the Code.

Senator Harp asked if there has been misuse of power of attorney in Montana. Senator Towe replied that David Niss reported there is a need for manpower for military personnel when forces are mobilized on short notice.

Senator Halligan stated that lay people like to try to do this on their own.

Senator Mazurek said he was concerned about elderly people being duped by the forms. Senator Towe replied that a general power of attorney is even more broad.

Chairman Pinsonneault suggested limiting the form to the military.

Senator Mazurek commented that California now has a statutory will.

Senator Grosfield commented that the checklist on page 3 should provide for initials by the checkmarks made.

Recommendation and Vote:

Senator Halligan made a motion that HB 942 BE CONCURRED IN AS AMENDED. The motion carried with all members voting aye except Senators Grosfield, Harp, and Pinsonneault who voted no. Senator Halligan was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 747

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Towe explained his amendments (Exhibit #6), and said he does not believe this should be mandated a second time when it is already being done.

Senator Towe made a motion to approve his amendments. The motion carried unanimously.

Senator Mazurek asked what the rationale was for putting other alternatives in the bill, and said it is not appropriate. Chairman Pinsonneault replied that this is addressed in HB 272.

Recommendation and Vote:

Senator Towe made a motion that HB 747 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 847

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Towe stated that the senior citizens do not want to be under gaming regulation. He explained his amendments (Exhibit #7) which exempt seniors from the card game and bingo sections of the law, and change "license" to "permit".

Senator Mazurek commented that the amendment does what the bill attempted to do.

Senator Yellowtail asked if senior citizens could not get into "casinoization" under this bill. Valencia Lane replied that they must be non-profit (page 6, lines 2-9).

Senator Halligan advised the Committee that page 7, Section 2, limits games to members and guests.

Senator Towe's motion to amend HB 847 carried with all members voting aye except Senator Harp who voted no.

Recommendation and Vote:

Senator Towe made a motion that HB 847 BE CONCURRED IN AS AMENDED. The motion carried unanimously. Senator Towe was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 494**Motion:****Discussion:****Amendments, Discussion, and Votes:**

Chairman Pinsoneault advised the Committee that he wanted to address how the funds would be split.

Valencia Lane explained that the amendments leave the bill in essentially the same form, but allow the county treasurer to divide up funds (Exhibit #8).

Senator Towe commented that the reinstatement fee was raised from \$50 to \$100. Valencia Lane further explained that the program is already in statute, and assesses a \$50 fee to the counties with DUI Task Force Programs. She said the bill only doubles that amount.

Chairman Pinsoneault stated that Lake County has the highest DUI rate in the state, and that the Task Force is working very well there.

Senator Towe made a motion to amend the bill to its original state. The motion carried 9-2 in a roll call vote (attached).

Senator Mazurek stated that the local governments want flexibility in expending these dollars, instead of having them go to the Department of Justice.

Senator Harp asked how unincorporated areas would be affected. Chairman Pinsonault replied that would not change. Senator Mazurek stated the dollars will still go to the general fund, even with Representative Brown's amendments.

Recommendation and Vote:

Senator Towe made a motion that HB 494 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 501

Motion:

Senator Mazurek made a motion that HB 501 BE TABLED.

Discussion:

There was no discussion on the motion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Mazurek carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 353

Motion:

Senator Mazurek made a motion that HB 353 BE CONCURRED IN. He said the Secretary of State advised him that this language was closely worked out.

Discussion:

There was no discussion on the motion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Mazurek carried unanimously. Senator Mazurek was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 503

Motion:

Senator Crippen made a motion that HB 503 BE TABLED.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

Senator Mazurek asked that the Committee pass on HB 503 for the day, as it is being discussed by his Subcommittee in conjunction with SB 427. Senator Crippen withdrew his motion and no action was taken this date.

EXECUTIVE ACTION ON HOUSE BILL 887

Motion:

Discussion:

Senator Mazurek said he would like to see the Committee draft a letter to the Chief Justice to make discovery limitations, since it is a problem.

Senator Towe proposed, as a second option, that the Committee make the request to the Supreme Court, but also pass the bill as a first option. He said Title 27 of the Code has an enormous amount of rules addressing procedural rules of the courts, and that he believes this would be a stronger message.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

Senator Towe made a motion that HB 887 BE CONCURRED IN. The motion failed 4-6 in a roll call vote (attached).

Senator Mazurek said he believes a committee letter would have more weight than a resolution.

Senator Svrcek made a motion that HB 887 BE TABLED. The motion carried with all members voting aye except Senators Towe and Harp.

Senator Mazurek made a motion to draft a letter to the Montana Supreme Court, the Montana Trial Lawyers, and the Montana Defense Trial Lawyers, urging that they direct a study on discovery and abuse thereof, via HB 887. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 596

Motion:

Discussion:

Senator Crippen stated his concern with how marital status is defined, and as brought up by Senator Rye. He said he does not believe single parents should be discriminated against, and asked what happens if a man and woman are not married and want to room together. He asked if sexual preference is knocked out the window.

Valencia Lane replied that the bill needs further clarification, but if the Committee wants to prohibit discrimination against single parents and allow discrimination against cohabitators, it could include single parenthood in familial status.

Senator Svrcek commented that many senior citizens live together and are not married because they will lose their social security.

Senator Towe said he believes the bill should pass as it is.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

Senator Towe made a motion that HB 596 BE CONCURRED IN. The motion carried with all Senators voting aye except Senators Crippen, Grosfield, and Pinsoneault who voted no. Senator Jacobson or Senator Yellowtail will carry HB 596.

EXECUTIVE ACTION ON HOUSE BILL 604Motion:Discussion:

Valencia Lane reported that HB 604 would allow adults who are not adopted to get information from out-of-wedlock birth certificates. She said she was concerned that there is no applicability section on privacy or anonymity, and with equal protection, as the bill would discriminate against adopted children. Valencia Lane stated that a bill was before the Senate Judiciary Committee in 1989 that would have allowed adopted children to view their birth certificates. She further stated that she had equality concerns as information regarding the mother is on the birth certificate, but information regarding the father is not.

Senator Mazurek stated that, in Lewis and Clark County, the Clerk of Court has a form with good cause reasons, and if an individual can convince a judge, he or she can view the birth certificate without paying a filing fee.

Amendments, Discussion, and Votes:

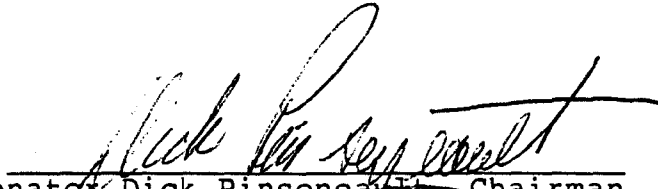
There were no amendments.

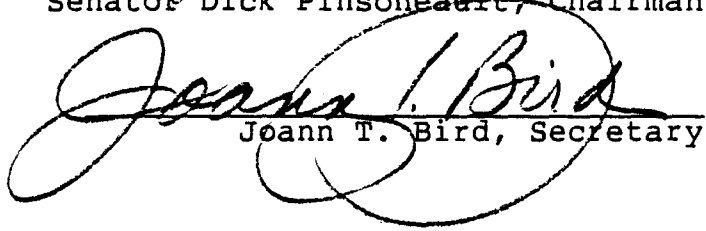
Recommendation and Vote:

Senator Mazurek made a motion that HB 604 BE TABLED. The motion carried unanimously.

ADJOURNMENT

Adjournment At: 11:50 a.m.


Senator Dick Pinsoneault, Chairman


Joann T. Bird, Secretary

DP/jtb

ROLL CALL

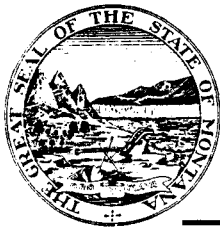
SENATE JUDICIARY COMMITTEE

52nd LEGISLATIVE SESSION -- 1991

Date April 19

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsonneault	1		
Sen. Yellowtail	1		
Sen. Brown	1		
Sen. Crippen	1		
Sen. Doherty	1		
Sen. Grosfield	1		
Sen. Halligan	1		
Sen. Harp	1		
Sen. Mazurek	1		
Sen. Rye	1		
Sen. Svrcek	1		
Sen. Towe	1		

Each day attach to minutes.



MONTANA STATE SENATE

SENATOR DAVID RYE
DISTRICT 47
HOME ADDRESS:
2211 OAK STREET
BILLINGS, MONTANA 59102

COMMITTEES:
JUDICIARY
FISH & GAME
PUBLIC HEALTH

CAPITOL STATION
HELENA, MONTANA 59620
PHONE (406) 444-4800
HOME PHONE (406) 245-6888

March 28, 1991

Ms. Jody Bird, Secretary
Senate Judiciary Committee
Capitol Bldg.
Helena, MT 59620

Dear Jody:

During my excused absence on Monday, April 1, 1991, I wish to be recorded as follows on votes scheduled for executive action by the Senate Judiciary Committee:

- HB 668 (Darko) - YES
- HB 735 (Measure) - YES
- HB 773 (Stickney) - YES
- HB 494 (O'Keefe) - YES ON THE BILL; NO ON AMENDMENTS BY REP. BROWN
- HB 417 (Elliott) - YES AS AMENDED
- HB 776 (Bergsagel) - YES
- HB 942 (G. Beck) - YES
- SB 414 (Manning/Doherty) - NO
- HB 747 (Lee) - YES AS AMENDED
- HB 847 (Lee) - YES AS AMENDED

Thank you for your assistance, and please convey my gratitude to Senator Pineseault for apprising me in advance of which bills have been scheduled for executive action on Monday.

Sincerely,

SEN. DAVID RYE

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 668 (third reading copy as amended-- blue), respectfully report that House Bill No. 668 be amended and as so amended be concurred in:

1. Page 2, line 13.

Strike: "AND"

2. Page 2, line 14.

Following: line 13

Insert: "(ii) be ordered to perform community service;"

Re-number: subsequent subsection

3. Page 2, line 14.

Strike: "MAY"

4. Page 2, line 17.

Following: line 16

Insert: "(iv) be sentenced to any combination of the penalties provided for in subsections (2)(a)(i) through (2)(a)(iii); or"

5. Page 3, line 7.

Strike: "or"

6. Page 3, line 8.

Following: line 7

Insert: "(iii) be ordered to perform community service; or"

Re-number: subsequent subsection

7. Page 3, line 8.

Strike: "these"

Insert: "the"

8. Page 3, line 9.

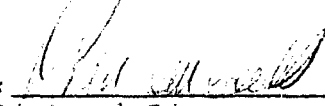
Following: "penalties"

Insert: "provided for in subsections (2)(b)(i) through (2)(b)(iii)"

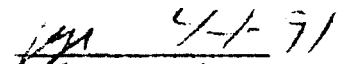
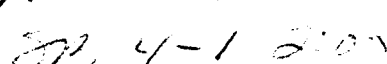
9. Page 4, line 2.

Following: line 1

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 398 is passed and approved and if it includes an amendment to 45-5-624 and if [this act] is passed and approved, then Senate Bill No. 398 is void."

Signed: 

Richard Pinsoneault, Chairman


Ad. Coord.
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 773 (third reading copy -- blue), respectfully report that House Bill No. 773 be amended and as so amended be concurred in:

1. Title, line 4.

Following: "AN ACT"

Strike: "TO PROTECT"

Insert: "RELATING TO"

2. Title, lines 6 and 7.

Following: "STATUTES" on line 6

Strike: remainder of line 6 through "ATTORNEY" on line 7

3. Title, line 7.

Following: "TO"

Strike: "INFORM THE PERSON"

Insert: "BE INFORMED"

4. Title, line 8.

Following: "RIGHTS;"

Insert: "PROVIDING THAT THE PERSON MUST BE INFORMED OF HIS RIGHTS
AT THE TIME OF HIS DETENTION; REMOVING THE REQUIREMENT THAT
HE BE INFORMED OF HIS RIGHTS AT THE TIME OF EXAMINATION;"

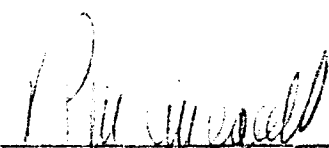
5. Page 1, line 15.

Strike: ", prior to" and "HIS APPEARANCE,"

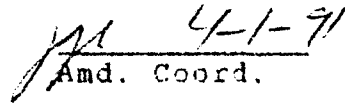
Insert: "at the time of detention"

6. Page 1, line 17.

Strike: "by the county attorney"

Signed: 

Richard Pinsoneault, Chairman

 4-1-91
Amd. Coord.

 4-1-91
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 417 (third reading copy as amended -- blue), respectfully report that House Bill No. 417 be amended and as so amended be concurred in:

1. Page 3, line 5.

Following: "involving"

Insert: "unlawful"

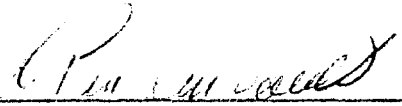
2. Page 4, line 7.

Following: "(f)"

Insert: "lawful self-defense or defense of others or"

3. Page 4, line 12.

Strike: "the individual"

Signed: 

Richard Pinsoneault, Chairman

AM 4-1-91
Amd. Coord.

SB 4-1
Sec. of Senate

2100

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 942 (third reading copy -- blue), respectfully report that House Bill No. 942 be amended and as so amended be concurred in:

1. Page 1, line 12.

Following: "form"

Insert: ", or a form substantially similar to the following form,"

2. Page 5, line 2.

Following: "}"

Insert: ",,"

3. Page 5, line 4.

Strike: "exactly"

Insert: "on a form substantially similar to the form provided in subsection (1)"

Signed: 

Richard Pinsoneault, Chairman

1991 4-1-91
And. Coord.

13 4-1 2:00
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 747 (third reading copy -- blue), respectfully report that House Bill No. 747 be amended and as so amended be concurred in:

1. Page 2, lines 3 through 5.

Following: "FACILITY," on line 3

Strike: remainder of line 3 through "STATE," on line 5

2. Page 2, line 16.

Following: "guilty"

Insert: "to a felony offense other than a crime of violence"

Signed: 
Richard Pinsoneault, Chairman

191 4-1-91
Amd. Coord.

SPB 4-1 2:00
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 847 (third reading copy -- blue), respectfully report that House Bill No. 847 be amended and as so amended be concurred in:

1. Title, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "23-5-112"

Insert: "AND 23-5-177"

2. Page 2, line 13.

Following: "table"

Insert: ":

(a)"

3. Page 2, line 14.

Following: "operator"

Insert: "; or

(b) operated by a senior citizen center"

4. Page 4, line 8.

Following: "operator"

Insert: "or in a senior citizen center"

5. Page 7, line 12.

Strike: "23-5-306, 23-5-308, AND 23-5-309"

Insert: "23-5-407 and 23-5-409"

6. Page 7, line 18.

Strike: "CARD"

Insert: "bingo"

7. Page 7, line 20.

Following: line 19

Insert: "Section 4. Section 23-5-177, MCA, is amended to read:

"23-5-177. Operator of gambling establishment -- license -- fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table ~~licensed~~ for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and ~~license number or least~~ permit number for each ~~licensed~~ game; and

(d) any other relevant information determined necessary by the department.

(3) The operator's license must be issued annually along with all other ~~licenses~~ permits for gambling devices or games ~~licensed~~ issued to the operator.

(4) The operator's license must be updated each time a gambling device or card game table ~~license~~ permit is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued."

Renumber: subsequent section

Signed: 
Richard Pinsonneault, Chairman

JA 4-1-91
Asst. Coord.

373 4-1 2:00
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 494 (third reading copy as amended -- blue), respectfully report that House Bill No. 494 be amended and as so amended be concurred in:

1. Title, lines 7 through 11.

Following: ";" on line 7

Strike: remainder of line 7 through "." on line 11

Following: "SECTION"

Strike: remainder of line 11 in its entirety

Insert: "SECTION"

2. Page 2, lines 1 and 2.

Following: "-" on line 1

Strike: remainder of line 1 through "." on line 2

Following: "THE"

Insert: "department shall deposit the"

3. Page 2, lines 3 through 22.


Following: "(1)" on line 3

Strike: remainder of line 3 through "COUNTY" on line 22

Insert: "in the general fund"

4. Page 2, line 23 through page 4, line 14.

Strike: section 2 in its entirety

Signed: 

Richard Pinsoneault, Chairman

MA 4-2-91
Asst. Coord.

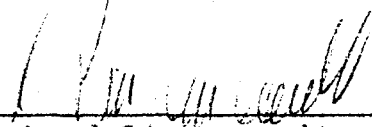
SB 4-2
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 353 (third reading copy as amended -- blue), respectfully report that House Bill No. 353 be concurred in.

Signed: 
Richard Pinsonneault, Chairman

JAR 4-1-91
And. Coord.

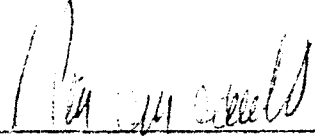
SP 4-1 2:00
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 596 (third reading copy -- blue), respectfully report that House Bill No. 596 be concurred in.

Signed: 
Richard Pinsonneault, Chairman

km 4-1-91
Asst. Coord.

EB 4-1 2:00
Sec. of Senate

EX F/1
April 1, 1991

HB 668

Amendments to House Bill No. 668
Third Reading Copy (BLUE)

For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1991

1. Page 2, line 13.
Strike: "AND"

2. Page 2, line 14.
Following: line 13
Insert: "(ii) be ordered to perform community service;"
Renumber: subsequent subsection

3. Page 2, line 14.
Strike: "MAY"

4. Page 2, line 17.
Following: line 16
Insert: "(iv) be sentenced to any combination of the penalties provided for in subsections (2)(a)(i) through (2)(a)(iii); or"

5. Page 3, line 7.
Strike: "or"

6. Page 3, line 8.
Following: line 7
Insert: "(iii) be ordered to perform community service; or"
Renumber: subsequent subsection

7. Page 3, line 8.
Strike: "these"
Insert: "the"

8. Page 3, line 9.
Following: "penalties"
Insert: "provided for in subsections (2)(b)(i) through (2)(b)(iii)"

9. Page 4, line 2.
Following: line 1
Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 398 is passed and approved and if it includes an amendment to 45-5-624 and if [this act] is passed and approved, then Senate Bill No. 398 is void."

CX # 2
4-1-91
HB 735

Amendments to House Bill No. 735
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1991

1. Title, line 6.
Following: "FOR"
Insert: "INCURRED OR IMMINENT REASONABLE AND NECESSARY"

2. Title, line 7.
Following: "EARNINGS"
Insert: "TO DATE"
Following: "DAMAGE"
Insert: "TO DATE"

3. Title, line 8.
Following: "LIABILITY"
Insert: "FOR THAT PARTICULAR EXPENSE, LOSS, OR DAMAGE"

4. Title, line 9.
Following: "CLEAR"
Insert: "AND THE SUM IS CAPABLE OF BEING MADE CERTAIN"
Following: first ";"
Insert: "PROVIDING AN EXCEPTION FOR PAYMENTS TO A THIRD-PARTY CLAIMANT WHEN A COLLATERAL SOURCE IS AVAILABLE TO THE CLAIMANT;"

5. Page 3, line 20.
Following: "pay"
Insert: "incurred or imminent reasonable and necessary"

6. Page 3, line 21.
Following: "earnings"
Insert: "to date"
Following: "damage"
Insert: "to date"
Following: "liability"
Insert: "for that particular expense, loss, or damage"

7. Page 3, line 22.
Following: "clear"
Insert: "and the sum is capable of being made certain"
Following: "._"
Insert: "This subsection does not apply to a failure to make payments to a third-party claimant when a collateral source is available to the claimant."

Ex. 2
4-1-91
HB 735

1 HOUSE BILL NO. 735

2 INTRODUCED BY MEASURE, PECK, TOOLE, COHEN, BROOKE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN INSURANCE
5 POLICY--THAT--PROVIDES--COVERAGE INSURER TO REIMBURSE AN
6 INSURED OR THIRD-PARTY CLAIMANT FOR MEDICAL EXPENSES, LOSS AND NECESSARY
7 OF EARNINGS, OR PROPERTY DAMAGE TO DATE
8 REQUIRING--PAYMENT--OF--CLAIMS WHEN LIABILITY IS REASONABLY
9 CLEAR; AMENDING SECTIONS 33-18-201 AND 33-18-242, MCA; AND

10 PROVIDING AN APPROPRIATE IMMEDIATE EFFECTIVE DATE."
11 PROVIDING AN EXCEPTION FOR PAYMENTS TO A THIRD-PARTY
12 CLAIMANT WHEN A COLLATERAL SOURCE IS AVAILABLE TO THE
13 CLAIMANT; (Refer to Introduced Bill)

14 Strike everything after the enacting clause and insert:
15 Section 1. Section 33-18-201, MCA, is amended to read:
16 "33-18-201. Unfair claim settlement practices
17 prohibited. No person may, with such frequency as to
18 indicate a general business practice, do any of the
19 following:
20 (1) misrepresent pertinent facts or insurance policy
21 provisions relating to coverages at issue;
22 (2) fail to acknowledge and act reasonably promptly
23 upon communications with respect to claims arising under
24 insurance policies;
25 (3) fail to adopt and implement reasonable standards

1 for the prompt investigation of claims arising under
2 insurance policies;
3 (4) refuse to pay claims without conducting a
4 reasonable investigation based upon all available
5 information;
6 (5) fail to affirm or deny coverage of claims within a
7 reasonable time after proof of loss statements have been
8 completed;
9 (6) neglect to attempt in good faith to effectuate
10 prompt, fair, and equitable settlements of claims in which
11 liability has become reasonably clear;
12 (7) compel insureds to institute litigation to recover
13 amounts due under an insurance policy by offering
14 substantially less than the amounts ultimately recovered in
15 actions brought by such insureds;
16 (8) attempt to settle a claim for less than the amount
17 to which a reasonable man would have believed he was
18 entitled by reference to written or printed advertising
19 material accompanying or made part of an application;
20 (9) attempt to settle claims on the basis of an
21 application which was altered without notice to or knowledge
22 or consent of the insured;
23 (10) make claims payments to insureds or beneficiaries
24 not accompanied by statements setting forth the coverage
25 under which the payments are being made;

1 (11) make known to insureds or claimants a policy of
 2 appealing from arbitration awards in favor of insureds or
 3 claimants for the purpose of compelling them to accept
 4 settlements or compromises less than the amount awarded in
 5 arbitration;

6 (12) delay the investigation or payment of claims by
 7 requiring an insured, claimant, or physician of either to
 8 submit a preliminary claim report and then requiring the
 9 subsequent submission of formal proof of loss forms, both of
 10 which submissions contain substantially the same
 11 information;

12 (13) fail to promptly settle claims, if liability has
 13 become reasonably clear, under one portion of the insurance
 14 policy coverage in order to influence settlements under
 15 other portions of the insurance policy coverage; or

16 (14) fail to promptly provide a reasonable explanation
 17 of the basis in the insurance policy in relation to the
 18 facts or applicable law for denial of a claim or for the
 19 offer of a compromise settlement; or

20 (15) fail to promptly pay a medical expenses, loss, of
 21 earnings, or property damage when liability is reasonably
 22 clear; ^{to date} ~~and the sum is capable of being made certain~~ *for that particular expense, loss, or property damage*

23 Section 2. Section 33-18-242, MCA, is amended to read:
 24 "33-18-242. Independent cause of action -- burden of
 25 proof. (1) An insured or a third-party claimant has an

1 independent cause of action against an insurer for actual
 2 damages caused by the insurer's violation of subsection (1),
 3 (4), (5), (6), (9), or (13), or (15) of 33-18-201.

4 (2) In an action under this section, a plaintiff is not
 5 required to prove that the violations were of such frequency
 6 as to indicate a general business practice.

7 (3) An insured who has suffered damages as a result of
 8 the handling of an insurance claim may bring an action
 9 against the insurer for breach of the insurance contract,
 10 for fraud, or pursuant to this section, but not under any
 11 other theory or cause of action. An insured may not bring an
 12 action for bad faith in connection with the handling of an
 13 insurance claim.

14 (4) In an action under this section, the court or jury
 15 may award such damages as were proximately caused by the
 16 violation of subsection (1), (4), (5), (6), (9), or (13), or
 17 (15) of 33-18-201. Exemplary damages may also be assessed in
 18 accordance with 27-1-221.

19 (5) An insurer may not be held liable under this
 20 section if the insurer had a reasonable basis in law or in
 21 fact for contesting the claim or the amount of the claim,
 22 whichever is in issue.

23 (6) (a) An insured may file an action under this
 24 section, together with any other cause of action the insured
 25 has against the insurer. Actions may be bifurcated for trial

This subsection does not apply to a failure to make payments to a third-party claimant when a collateral source is available to the claimant."

EX. 2

4-1-91

HB 735-

HB 0735/02

1 where justice so requires.

2 (b) A third-party claimant may not file an action under
3 this section until after the underlying claim has been
4 settled or a judgment entered in favor of the claimant on
5 the underlying claim.

6 (7) The period prescribed for commencement of an action
7 under this section is:

8 (a) for an insured, within 2 years from the date of the
9 violation of 33-18-201; and

10 (b) for a third-party claimant, within 1 year from the
11 date of the settlement of or the entry of judgment on the
12 underlying claim.

13 (8) As used in this section, an insurer includes a
14 person, firm, or corporation utilizing self-insurance to pay
15 claims made against them."

16 NEW SECTION. Section 3. Effective date. [This act] is
17 effective on passage and approval.

-End-

4-1-91
HB 773

Amendments to House Bill No. 773
Third Reading Copy (BLUE)

Requested by Senator Halligan
For the Committee on Judiciary

Prepared by Valencia Lane
March 26, 1991

1. Title, line 4.
Following: "AN ACT"
Strike: "TO PROTECT"
Insert: "RELATING TO"

2. Title, lines 6 and 7.
Following: "STATUTES" on line 6
Strike: remainder of line 6 through "ATTORNEY" on line 7

3. Title, line 7.
Following: "TO"
Strike: "INFORM THE PERSON"
Insert: "BE INFORMED"

4. Title, line 8.
Following: "RIGHTS;"
Insert: "PROVIDING THAT THE PERSON MUST BE INFORMED OF HIS RIGHTS
ONLY AT THE TIME OF HIS DETENTION; REMOVING THE REQUIREMENT
THAT HE BE INFORMED OF HIS RIGHTS AT THE TIME OF
EXAMINATION;"

5. Page 1, line 15.
Strike: ", prior to" and "HIS APPEARANCE,"
Insert: "at the time of detention"

6. Page 1, line 17.
Strike: "by the county attorney"

1 HOUSE BILL NO. 773

2 INTRODUCED BY STICKNEY, SCHIVE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~TO PROTECT~~ ^{RELATING TO} THE RIGHTS

5 OF A PERSON WHO IS INVOLUNTARILY DETAINED OR EXAMINED UNDER

6 THE INVOLUNTARY COMMITMENT STATUTES ~~BY REQUIRING THE COUNTY~~ ^{BE INFORMED}
7 ~~ATTORNEY OR A PEACE OFFICER TO INFORM THE PERSON~~ ^{OF HIS}

8 RIGHTS; AND AMENDING SECTION 53-21-114, MCA." ^{PROVIDING THAT THE PERSON MUST BE INFORMED OF HIS RIGHTS}
9 ^{ONLY AT THE TIME OF HIS DETENTION; REMOVING THE REQUIREMENT}
10 ^{THAT HE BE INFORMED OF HIS RIGHTS AT THE TIME OF}
11 ^{EXAMINATION;}

12 Section 1. Section 53-21-114, MCA, is amended to read:

13 "53-21-114. Notice of rights to be given. (1) Whenever

14 a person is involuntarily detained or is examined pursuant

15 to 53-21-121 through 53-21-126, the person shall at the time ^{of detention or prior to examination} ~~his appearance~~ ^{at the time of detention} be

16 informed of his constitutional rights and his rights under

17 this part ~~by the county attorney or a peace officer~~.

18 Within 3 days of such detention or examination, he must also be

19 informed in writing by the county attorney of such rights.

20 (2) Every respondent subject to an order for short-term

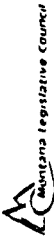
21 treatment or long-term care and treatment shall be advised

22 in writing of his right to appeal the order by the court at

23 the conclusion of any hearing the result of which such an

24 order may be entered."

-End-



Ex # 4
4-1-91
HB942

Amendments to House Bill No. 942
Third Reading Copy

Requested by Sen. Towe
For the Committee on Judiciary

Prepared by ~~Valencia Lane~~ DAVID
March 28, 1991 NISS

1. Page 1, line 15.
Strike: "through 16"
Insert: "and 2"

2. Page 1, line 17.
Strike: "THEY ARE DEFINED IN [SECTIONS 2 THROUGH 16]."

3. Page 2, lines 14 and 15.
Strike: "as each of them is defined in [sections 2 through 16]"

4. Page 5, line 2.
Strike: "through 16"
Insert: "and 2"
Following: "]"
Insert: ", "

5. Page 5, line 8.
Strike: "[sections 2 through 16]"
Insert: "the form provided in subsection (1)"

6. Page 5, line 11 through page 49, line 20.
Following: line 10
Strike: sections 2 through 15 in their entirety
Re-number: subsequent sections

EX #3
4-1-91
HB 942

Amendments to House Bill No. 942
Third Reading Copy

Requested by Sen Towe
For the Committee on Judiciary

Prepared by ~~Valencia Lane~~
March 28, 1991 DAVID NISS

1. Page 1, line 12.
Following: "form"
Insert: ", or a form substantially similar to the following
form,"

2. Page 5, line 2.
Following: "]"
Insert: ",,"

3. Page 5, line 4.
Strike: "exactly"
Insert: "on a form substantially similar to the form provided in
subsection (1)"

EX-10
4-1-91
HB 747

Amendments to House Bill No. 747
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 22, 1991

1. Page 2, lines 3 through 5.
Following: "FACILITY," on line 3
Strike: remainder of line 3 through "STATE," on line 5

2. Page 2, line 16.
Following: "guilty"
Insert: "to a felony offense other than a crime of violence"

CR-1
4-1-91
HB 847

Amendments to House Bill No. 847
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1991

1. Title, line 6.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "23-5-112"
Insert: "AND 23-5-177"

2. Page 2, line 13.
Following: "table"
Insert: "
 (a)"

3. Page 2, line 14.
Following: "operator"
Insert: "; or
 (b) operated by a senior citizen center"

4. Page 4, line 8.
Following: "operator"
Insert: "or in a senior citizen center"

5. Page 7, line 12.
Strike: "23-5-306, 23-5-308, AND 23-5-309"
Insert: "23-5-407 and 23-5-409"

6. Page 7, line 18.
Strike: "CARD"
Insert: "bingo"

7. Page 7, line 20.
Following: line 19
Insert: "Section 4. Section 23-5-177, MCA, is amended to read:
 "23-5-177. Operator of gambling establishment -- license --
fee. (1) It is a misdemeanor for a person who is not licensed by
the department as an operator to make available to the public for
play a gambling device or gambling enterprise for which a permit
must be obtained from the department.

(2) An operator's license must include the following
information:

(a) a description of the premises upon which the gambling
will take place;

(b) the operator's name;

(c) a description of each gambling device or card game
table licensed for which a permit has been issued to the operator
by the department for play upon the premises, including the type
of game and ~~license number or deal~~ permit number for each

licensed game; and

(d) any other relevant information determined necessary by the department.

(3) The operator's license must be issued annually along with all other ~~licenses~~ permits for gambling devices or games ~~licensed~~ issued to the operator.

(4) The operator's license must be updated each time a gambling device or card game table ~~license~~ permit is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued.""

Renumber: subsequent section

CR = 0
4-1-91
HB 494

Amendments to House Bill No. 494
Third Reading Copy (BLUE)

DAVE
Requested by Rep. ^ Brown
For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1991

1. Title, line 8.
Following: "TO"
Insert: "CITIES AND"
2. Title, line 11.
Following: "17-7-502"
Insert: ", "
Strike: "AND"
3. Title, line 12.
Following: "61-2-107,"
Insert: "AND 61-2-108,"
4. Page 1, line 16.
Following: "fund"
Strike: "county"
5. Page 2, line 8.
Following: "COUNTY."
Insert: "The county treasurer shall distribute the fee money to each incorporated city or town in the county in the ratio that the population of the incorporated city or town bears to the county population."
6. Page 2, line 10.
Following: "THE"
Insert: "county portion of the"
7. Page 2, line 15.
Following: "SUBSTANCE ABUSE"
Strike: "i;"
Insert: "and"
8. Page 2, lines 15 and 16.
Following: "DELINQUENCY" on line 15
Strike: remainder of line 15 through "PROGRAMS" on line 16
9. Page 2, line 16.
Following: "i;"
Insert: "An incorporated city or town shall use the fee money in the same manner as counties."
10. Page 2, line 23.
Following: line 22

Insert: "Section 2. Section 61-2-108, MCA, is amended to read:

"61-2-108. Funding allocation for programs to prevent or reduce drinking and driving. If the county in which the violation or violations occurred has initiated and maintained a drinking and driving prevention program as provided in 61-2-106, the department shall transmit the proceeds of the license reinstatement fees collected under 61-2-107(2)(b) in that county to the county treasurer at the end of each quarter."

Renumber: subsequent section

Ex. 9
4-1-91
HB 494

Amendments to House Bill No. 494
Third Reading Copy

For the Committee on Judiciary

Prepared by Greg Petesch
April 1, 1991

1. Title, lines 7 through 11.
Following: ";" on line 7
Strike: remainder of line 7 through "i" on line 11
Following: "SECTION"
Strike: remainder of line 11 in its entirety
Insert: "SECTION"

2. Page 2, lines 1 and 2.
Following: "-" on line 1
Strike: remainder of line 1 through "." on line 2
Following: "THE"
Insert: "department shall deposit the"

3. Page 2, lines 3 through 22.
Following: "(1)" on line 3
Strike: remainder of line 3 through "COUNTY" on line 22
Insert: "in the general fund"

4. Page 2, line 23 through page 4, line 14.
Strike: section 2 in its entirety

Ex. 9
4-1-91
HB 494

52nd Legislature

HB 0494/02

The county treasurer shall distribute the fee money each incorporated city or town in the county in the ratio that the population of the incorporated city or town bears to the county population.

1 HOUSE BILL NO. 494
2 INTRODUCED BY O'KEEFE, T. NELSON, FAGG, CONNELLY, PIPINICH,
3 J. BROWN, STRIZICH, PECK, REAM, BECKER, MERCER, GILBERT,
4 HARPER, SCHYE, RYE
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE DRIVER'S
7 LICENSE REINSTATEMENT FEE; STATUTORILY APPROPRIATING THE
8 FEE TO CITIES AND COUNTIES FOR PROGRAMS AND FACILITIES FOR MINORS,
9 ADULT CHEMICAL DEPENDENCY TREATMENT PROGRAMS, LAW
10 ENFORCEMENT TRAINING PROGRAMS, AND LAW ENFORCEMENT
11 EQUIPMENT; AND AMENDING SECTION SECTIONS 17-7-502, ~~AND~~
12 61-2-107, ^{AND 61-2-108,} MCA."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 Section 1. Section 61-2-107, MCA, is amended to read:
16 "61-2-107. License reinstatement fee to fund ~~county~~
17 drinking and driving prevention programs. (1)
18 Notwithstanding the provisions of any other law of the
19 state, a driver's license that has been suspended or revoked
20 under 61-5-205 or 61-8-402 must remain suspended or revoked
21 until the driver has paid to the department a fee of \$50
22 \$100 in addition to any other fines, forfeitures, and
23 penalties assessed as a result of conviction for a violation
24 of the traffic laws of the state.

25 (2) ~~The department shall deposit the fees collected~~

1 ~~under-subsection (1) in the general fund:~~ (A) THERE IS AN
2 ACCOUNT IN THE STATE SPECIAL REVENUE FUND. THE FEES
3 COLLECTED UNDER SUBSECTION (1) MUST BE DEPOSITED IN THE
4 ACCOUNT. THE MONEY IN THE ACCOUNT IS STATUTORILY
5 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, TO
6 BE DISTRIBUTED TO COUNTY TREASURERS. THE DEPARTMENT SHALL
7 DISTRIBUTE TO EACH COUNTY TREASURER ALL FEE MONEY IN THE
8 FUND COLLECTED FROM DRIVERS RESIDING IN THAT COUNTY. ^{country portion} EXCEPT
9 AS PROVIDED IN SUBSECTION (2)(B), THE BOARD OF COUNTY
10 COMMISSIONERS IN EACH COUNTY SHALL DISTRIBUTE THE MONEY TO
11 STATE AND LOCAL GOVERNMENTAL ENTITIES, AND PRIVATE ENTITIES
12 WORKING WITH STATE AND LOCAL GOVERNMENTAL ENTITIES, THAT
13 OPERATE PROGRAMS WITHIN THE COUNTY THAT ADDRESS THE PROBLEMS
14 AND CONCERNS OF MINORS, INCLUDING BUT NOT LIMITED TO
15 SUBSTANCE ABUSE, ^{and} CHILD ABUSE, NEGLECT, AND DELINQUENCY, ~~AND~~
16 ~~YOUTH RECREATIONAL FACILITIES AND PROGRAMS.~~ ↑

17 (B) A BOARD OF COUNTY COMMISSIONERS MAY DISTRIBUTE UP
18 TO ONE-HALF OF THE MONEY DISTRIBUTED TO THE COUNTY TREASURER
19 UNDER SUBSECTION (1)(A) TO ADULT CHEMICAL DEPENDENCY
20 TREATMENT PROGRAMS AND LAW ENFORCEMENT TRAINING PROGRAMS
21 THAT OPERATE WITHIN THE COUNTY AND FOR EQUIPMENT FOR LOCAL
22 GOVERNMENT LAW ENFORCEMENT AGENCIES WITHIN THE COUNTY.

23 ³ SECTION 2. NEW SECTION. SECTION 17-7-502, MCA, IS AMENDED TO READ:

24 "17-7-502. Statutory appropriations -- definition --
25 requisites for validity. (1) A statutory appropriation is an



An incorporated city or town shall use the fee money in the same manner as counties.

THIRD READING
AS AMENDED

1 appropriation made by permanent law that authorizes spending
2 by a state agency without the need for a biennial
3 legislative appropriation or budget amendment.

4 (2) Except as provided in subsection (4), to be
5 effective, a statutory appropriation must comply with both
6 of the following provisions:

7 (a) The law containing the statutory authority must be
8 listed in subsection (3).

9 (b) The law or portion of the law making a statutory
10 appropriation must specifically state that a statutory
11 appropriation is made as provided in this section.

12 (3) The following laws are the only laws containing
13 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
14 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
15 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
16 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
17 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
18 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
19 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
20 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
21 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
22 53-24-206; 61-2-107; 61-2-406; 61-5-121; 67-3-205;
23 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;
24 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;
25 90-6-331; 90-9-306; and section 13, House Bill No. 90-4-215;

NEW SECTION.

Section 2. Section 61-2-108, MCA, is amended to read:
"61-2-108. Funding allocation for programs to prevent or
reduce drinking and driving. If the county in which the violation
or violations occurred has initiated and maintained a drinking
and driving prevention program as provided in 61-2-106, the
department; 11 transmit the proceeds of the license
reinstatement; fees collected under 61-2-107(2)(b) in that count
to the county treasurer at the end of each quarter."

1 of 1985.
2 (4) There is a statutory appropriation to pay the
3 principal, interest, premiums, and costs of issuing, paying,
4 and securing all bonds, notes, or other obligations, as due,
5 that have been authorized and issued pursuant to the laws of
6 Montana. Agencies that have entered into agreements
7 authorized by the laws of Montana to pay the state
8 treasurer, for deposit in accordance with 17-2-101 through
9 17-2-107, as determined by the state treasurer, an amount
10 sufficient to pay the principal and interest as due on the
11 bonds or notes have statutory appropriation authority for
12 such payments. (In subsection (3), pursuant to sec. 10, Ch.
13 664, L. 1987, the inclusion of 39-71-2504 terminates June
14 30, 1991.)"

-End-

Ex. 10
HB 417
4-1-91

To the Chairman of the Judiciary Committee and Committee Members:

From Lenora V. Houldson, Missoula, Montana 728-8314 or 549-3678

Re: HB 417 (Elliott) Prohibit activities designed to promote civil disorder

Time: Judiciary Committee Meeting 10 AM 3-27-91 Room 325

Comments:

Thank you for your time as I am not able to appear for testimony. As the bill stands, I am urging defeat. At the present time there are no amendments for allowable shooting events or military training. I feel that Constitutional rights are severely threatened, especially against the second and eighth amendments.

Neo-Nazi activity in ID is a very small group made to sound large by a news-hungry media. There are probably well under 20 now and they pose no threat as the FBI infiltration activity takes care of such threats, according to Mary Jean Leach, President of American Legion Auxillary in Bonners Ferry, who has heavily researched the problem.

I am treasurer on the board of directors, on the executive committee of the Montana Rifle and Pistol Association. I am not aware of the organization endorsing this bill as I have been told. The chairman of the legislative committee was not aware of such an endorsement from my last information last week.

I also feel HB 417 would threaten hunting and matches sponsored by the Department of Civilian Marksmanship (Dep't of Defense, US Army) which are civilian training matches.

Thank you.

Sincerely,

Lenora V Houldson

Lenora V. Houldson



STATE OF MONTANA
DEPARTMENT OF JUSTICE
GAMBLING CONTROL DIVISION

Ex 11

HB 503

4-1-91

Marc Racicot
Attorney General



2687 Airport Road
Helena, MT 59620-1424

March 18, 1991

TO: Members of the Senate Judiciary Committee

FROM: Lois Menzies, Administrative Officer, Gambling Control Division *Lois Menzies*

RE: Classification of sports pools under the federal Indian Gaming Regulatory Act

During the public hearing on House Bill No. 503 (sports tab games) before the Senate Judiciary Committee on Friday, March 15, 1991, I stated that sports tabs are a form of class II gaming under the federal Indian Gaming Regulatory Act. An Indian tribe may engage in class II gaming on Indian lands within the tribe's jurisdiction if: (1) the gaming is located within a state that permits such gaming for any purpose by any person, organization, or entity; and (2) the governing body of the tribe adopts an ordinance or resolution authorizing the gaming, which is approved by the chairman of the National Indian Gaming Commission. Class II gaming is not subject to a tribal-state compact.

In response to a Committee question, I stated that sports pools are also a form of Class II gaming. After reconsidering my answer, I have concluded that the federal law is unclear as to whether sports pools are class II or III gaming. I am not aware of any authoritative ruling in this area. If a sports pool is considered a form of class III gaming, the activity is lawful on Indian lands if: (1) the gaming is located within a state that permits such gaming for any purpose by any person, organization, or entity; (2) the governing body of the tribe adopts an ordinance or resolution authorizing the gaming, which is approved by the chairman of the National Indian Gaming Commission; and (3) the gaming is conducted in conformance with a tribal-state compact.

I apologize for the confusion. At your request, Bob Robinson and I would be happy to attend the executive session on HB 503.

cc: Valencia Lane

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

#1

Date 4-1-91 Bill No. H.B. 735 Time 10:40 am

NAME	YES	NO
Sen. Brown	✓	
Sen. Crippen		✓
Sen. Doherty	✓	
Sen. Grosfield		✓
Sen. Halligan	✓	
Sen. Harp		✓
Sen. Mazurek		✓
Sen. Rye		✓
Sen. Svrcek	✓	
Sen. Towe	✓	
Sen. Yellowtail	✓	
Sen. Pineseault		✓
	6	6

Jody Bird
Secretary

Sen. Dick Pineseault
Chairman

Motion: (c) Towe - BCIAH

ROLL CALL VOTE

2

SENATE COMMITTEE JUDICIARY

Date 4-19-1 Bill No. HB 735 Time 10:40 am

NAME	YES	NO
Sen. Brown	✓	
Sen. Crippen	✓	
Sen. Doherty	✓	
Sen. Grosfield	✓	
Sen. Halligan	✓	
Sen. Harp	✓	
Sen. Mazurek	✓	
Sen. Rye	✓	
Sen. Svrcek		✓
Sen. Towe		✓
Sen. Yellowtail		✓
Sen. Pinsonneault	✓	
	9	3

Jody Bird
Secretary

Sen. Dick Pinsonneault
Chairman

Motion: ① Harp-Talbot

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 4-1-91 Bill No. HB494 Time 11:30 am

NAME	YES	NO
Sen. Brown	✓	
Sen. Crippen	✓	
Sen. Doherty		✓
Sen. Grosfield	✓	
Sen. Halligan	✓	
Sen. Harp	✓	
Sen. Mazurek		✓
Sen. Rye		
Sen. Svrcek	✓	
Sen. Towe	✓	
Sen. Yellowtail	✓	
Sen. Pineseault	✓	
	9	2

Jody Bird
Secretary

Sen. Dick Pineseault
Chairman

Motion: (C) True - amend to original form

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 4-1-91 Bill No. HB 227 Time 11:40

NAME	YES	NO
Sen. Brown		
Sen. Crippen		1
Sen. Doherty		1
Sen. Grosfield		1
Sen. Halligan		1
Sen. Harp	1	
Sen. Mazurek		1
Sen. Rye		
Sen. Svrcek		1
Sen. Towe	1	
Sen. Yellowtail	1	
Sen. Pinsoneault	1	
	4	6

Jody Bird
Secretary

Sen. Dick Pinsoneault
Chairman

Motion: (P. Towe - BCL)