

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN BILL BOHARSKI, on January 27, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Bill Boharski, Chair (R)
Rep. Bruce Simon, Vice Chair (R)
Rep. Stella Jean Hansen, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Duane Grimes (R)
Rep. Brad Molnar (R)
Rep. Tom Nelson (R)
Rep. Sheila Rice (D)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Carolyn Squires (D)
Rep. Bill Strizich (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Council
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: HB 309, SB 80
Executive Action: HB 225, HJR 4, HB 211, HB 238, HB 75

HEARING ON HB 309

Opening Statement by Sponsor:

REP. BETTY LOU KASTEN, House District 28, Brockway, said HB 309
doesn't change the present program for the medically needy. It
allows people with income greater than the medically needy income
level to qualify for medicaid by making a cash payment to the

state.

Proponents' Testimony:

Peter Blouke, Director, Department of Social and Rehabilitation Services (SRS), said HB 309 will save money by improving the medically needy program. SRS will allow eligible medically needy clients to purchase a Medicaid card from the department at the beginning of each month, which would make them medically eligible for the entire month. The medically needy are required to pay their medical bills up to a certain amount before they are eligible for Medicaid. Under this option a card can be purchased making them eligible for the entire month, and any medical expenses incurred during the month would be paid by Medicaid. When Medicaid clients pay the medical expenses, they must pay 100% of the bill. If Medicaid pays for those services, it pays only 60% to 70% of the cost, depending on the provider. Under this option providers are guaranteed payment, and get their payment quicker. In the event a Medicaid client who chooses to purchase the card does not incur medical expenses during the month, SRS can refund the cost of the card. Reimbursement could take up to a year because of the time lag in the billing that comes through. **EXHIBIT 1.**

Kate Cholewa, Montana Women's Lobby (MWL), said MWL supports HB 309.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SAYLES asked **Peter Blouke** if a client would be reimbursed if cards purchased for January and February weren't used, but cards purchased for the remainder of the year were used. **Mr. Blouke** said the medically needy program is a month by month eligibility.

CHAIRMAN BOHARSKI asked **Mr. Blouke** if the program originally used a three-month spend-down formula. **Mr. Blouke** deferred the question to **Linda Van Diest, SRS**. **Ms. Van Diest** said the three-month spend-down formula was changed about a year and a half ago when the TEAMS computer system was instituted.

REP. SQUIRES asked **Mr. Blouke** if a client's spend-down requirement could be applied to any medically needy expense. **Mr. Blouke** said once a person qualifies for Medicaid, that person is eligible for all Medicaid services. If a client has an income of \$450, a Medicaid card can be purchased for \$50 and the client would be eligible for all Medicaid services; or the client could spend \$50 for a medical service and would have spent-down to the income level eligibility for all Medicaid services. **Rep. SQUIRES** asked **Mr. Blouke** if the \$50 could be applied to needed medical equipment. **Mr. Blouke** said the spend-down has to be towards

medically necessary bills. In many cases medical equipment is necessary.

REP. RUSSELL asked **Mr. Blouke** if there would be a larger population of medically needy on the program due to the changes, and therefore, cost the state more money. **Mr. Blouke** said the state would save approximately \$4,000,000 over the biennium and about 28% of that is general fund money.

CHAIRMAN BOHARSKI referred to the fiscal note and asked **Mr. Blouke** why another FTE was needed if the changes would simplify the Medicaid process. **Mr. Blouke** deferred the question to **Linda Van Diest**. **Ms. Van Diest** said another FTE is needed to collect the money, and ensure that the information is input into TEAMS to determine eligibility.

CHAIRMAN BOHARSKI asked **Ms. Van Diest** if both earned income and unearned income were considered as monthly income for the medically needy. **Ms. Van Diest** replied that was correct.

Closing by Sponsor:

REP. KASTEN asked the committee to consider DO PASS recommendation.

HEARING ON SB 80

Opening Statement by Sponsor:

SENATOR ED KENNEDY, Senate District 3, Kalispell, said SB 80 is basically a housekeeping bill. In 1991 the hearing aid dispensers' bill was passed by the Legislature. The purpose of the bill was to allow an applicant two retake examinations after failing the first examination. The bill was improperly worded. Consequently, the applicant cannot take that many re-examinations after failing the first examination. SB 80 puts the original intent of the bill back into the legislation.

Proponents' Testimony:

Steve Wilson, Licensed Hearing Aid Dispenser for Miracle Ear, said SB 80 benefits the Board of Hearing Aid Dispensers and the applicant because it allows an applicant who has failed the original practical examination two additional opportunities for re-examination. Applicants had this privilege prior to the changes by the 1991 Legislature. The bill gives the board the authority to propose rules to establish additional training requirements, to grant a waiver for family emergencies, and the authority to set the number of hours for continuing education. At the present time, four hours of continuing education is required. Four hours is not adequate to stay on top of the technical changes in the profession.

Ben Havdahl, Board of Hearing Aid Dispensers, said under the current law, unlicensed applicants are allowed to sell hearing aids for two years. The original bill has been improved considerably. SB 80 provides the board the authority to set the standards for continuing education and re-examinations. Hearing aids are becoming a high technology business. On-going education of dispensers is essential and in the best interest of the consumer.

Mona Jamison, Montana Association of Speech Pathologists and Audiologists (MASPA), said SB 80 makes it necessary for a trainee to comply with the board's additional educational and training requirements before taking the third examination. The bill protects the public's health. She urged support of SB 80.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SIMON said an applicant shouldn't be licensed until the examination is passed. He asked **Mary Lou Garrett, Administrative Assistant, Board of Hearing Aid Dispensers**, why an applicant has to either take the next examination right away or request a waiver. **Ms. Garrett** said the law currently states that a trainee is in a trainee status for twelve continuous months unless a waiver to extend that period is granted due to illness or other emergencies. The law also allows two renewals of the trainee license until the next examination. SB 80 allows a license renewal until the second examination. If that examination is failed, the trainee can get another trainee license renewal, but will have to have additional training that only the board will approve. The reason for this is because licensed hearing aid dispensers are now using trainees as salesmen. Dispensers are training them to do the ear mold, audiogram, and the audiometric testing, which is very important, but they are not being trained to provide selection of hearing aids or other intricate follow-ups. The additional training will ensure that trainees are adequately trained.

REP. SMITH asked **Ms. Garrett** if the same examination was used each time. **Ms. Garrett** said the same examination is never used twice.

CHAIRMAN BOHARSKI asked **Mr. Garrett** if a third examination could be taken after failing the first two, under the current law. **Ms. Garrett** said the current law does not allow the third examination. She said SB 80 will allow the third examination.

Closing by Sponsor:

SEN. KENNEDY said SB 80 had the support of the hearing aid dispensers and asked for the committee's support.

EXECUTIVE ACTION ON HB 225

Motion: REP. SAYLES MOVED HB 225 DO PASS.

Discussion: CHAIRMAN BOHARSKI explained the amendment to HB 225.

Motion/Vote: REP. SAYLES moved to amend HB 225. EXHIBIT 2.
Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. SAYLES MOVED HB 225 DO PASS AS AMENDED. Voice vote was taken. Motion CARRIED unanimously.

Vote: HB 225 DO PASS AS AMENDED.

EXECUTIVE ACTION ON HJR 4

Motion: REP. BARNHART MOVED HJR 4 DO PASS.

Discussion: CHAIRMAN BOHARSKI asked Rep. Barnhart why the resolution needed to be sent to every daily newspaper in Montana. He said he didn't have any idea what the cost would be, or how much work it would cause the Secretary of State's office. REP. BARNHART said she was agreeable not to send to the daily newspapers in Montana.

REP. DOWELL said he thought the resolution should be sent to the daily newspapers.

Motion: REP. BARNHART moved an amendment be drafted removing "and the publisher of each daily newspaper in the state" from the resolution.

Discussion: REP. SIMON said there aren't that many daily newspapers in Montana and the cost wouldn't be that significant. He said the resolution should be sent to every daily newspaper in Montana.

REP. BARNHART withdrew the motion for an amendment to HJR 4.

Vote: HJR 4 DO PASS. Voice vote was taken. Motion CARRIED unanimously.

Vote: HJR 4 DO PASS.

EXECUTIVE ACTION ON HB 211

Motion: REP. SAYLES MOVED HB 211 DO PASS.

Discussion: REP. SIMON said the bill has an immediate effective date. There is no need for an immediate effective date. Each immediate effective date on legislation costs additional money for special handling.

Motion/Vote: REP. SIMON moved an amendment to HB 211 striking "immediate effective date" and making it effective October 1, 1993. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. STRIZICH MOVED HB 211 DO PASS AS AMENDED. Voice vote was taken. Motion CARRIED unanimously.

Vote: HB 211 DO PASS AS AMENDED.

EXECUTIVE ACTION ON HB 238

Motion: REP. SMITH MOVED HB 238 DO PASS.

Motion/Vote: REP. SMITH moved the amendment to HB 238. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. SMITH MOVED HB 238 DO PASS AS AMENDED. Voice vote was taken. Motion CARRIED 15 to 1.

Vote: HB 238 DO PASS AS AMENDED.

EXECUTIVE ACTION ON HB 75

Motion: REP. NELSON MOVED HB 75 DO PASS.

Motion: REP. NELSON moved to adopt the amendments to HB 75.

Discussion: REP. NELSON explained the amendments. EXHIBIT 3.

REP. SIMON called the committee's attention to amendment no. 11. He said by eliminating subsection 6, a legislator's right to introduce a bill is not eliminated, but a bill that doesn't go through the process in the subsection would have less chance of serious consideration.

REP. SAYLES asked REP. NELSON if the amendments would eliminate the fears of the opponents to the bill. REP. NELSON said he didn't believe it would.

REP. BARNHART asked CHAIRMAN BOHARSKI if the amendments had been discussed with Mark O'Keefe, to which he replied no, except for what was discussed during the hearing.

REP. STRIZICH said he thought the insurance commissioner should review the amendments before the committee takes action on them. CHAIRMAN BOHARSKI said he could show him the bill as amended before final action is taken, but would like to vote on the amendments first.

REP. SQUIRES said the insurance commissioner should review the amendments before a vote is taken.

REP. SIMON said he didn't think the bill would be harmed in any way if executive action was delayed until Friday so Mark O'Keefe could review the amendments.

REP. STRIZICH said an alternative would be to prepare a gray bill.

CHAIRMAN BOHARSKI said a gray bill couldn't be prepared without taking action on the bill. David Niss, Legal Counsel, said a gray bill could be prepared without taking action on the bill first.

CHAIRMAN BOHARSKI said if it was acceptable to REP. NELSON, he could withdraw his motions and a gray bill would be prepared and submitted to the insurance commissioner for his review before taking any action on the bill.

REP. NELSON withdrew his motions. Executive action was postponed.

Other Committee Business:

REP. MOLNAR said last Friday he made the statement that he would not give a yes vote to certain legislation because the testimony lacked credibility. He stated he would listen to the tape and if he used the word "liar", or language so strong that was the only logical interpretation, he will apologize to SEN. ECK. However, if what has now become a big issue, is found to be the result of over-sensitivity, based on a long-term friendship, he will only apologize for any misunderstanding or hard feelings.

ADJOURNMENT

Adjournment: 4:50 p.m.

Wm E Boharski

WILLIAM BOHARSKI, Chair

Alyce Rice

ALYCE RICE, Secretary

WB/ar

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING

COMMITTEE

ROLL CALL

DATE

1/27/93

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL BOHARSKI, CHAIRMAN	✓		
REP. BRUCE SIMON, VICE CHAIRMAN	✓		
REP. STELLA JEAN HANSEN, V. CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. TIM DOWELL	✓		
REP. DUANE GRIMES	✓		
REP. BRAD MOLNAR	✓		
REP. TOM NELSON	✓		
REP. SHEILA RICE	✓		
REP. ANGELA RUSSELL	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. CAROLYN SQUIRES	✓		
REP. BILL STRIZICH	✓		

HOUSE STANDING COMMITTEE REPORT

January 28, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 238 (first reading copy -- white) do pass as amended.

Signed: _____

Wm E Boharski

Bill Boharski, Chair

And, that such amendments read:

1. Title, line 10.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "41-3-202"

Insert: "AND 41-3-401"

2. Page 3.

Following: line 9

Insert: "Section 2. Section 41-3-401, MCA, is amended to read:

"41-3-401. Abuse, neglect, and dependency petitions. (1) The county attorney, attorney general, or an attorney hired by the county welfare department or office of human services shall be responsible for filing all petitions alleging abuse, neglect, or dependency. The county attorney or attorney general, or an attorney hired by the county welfare department or office of human services with the written consent of the county attorney or attorney general, may require all state, county, and municipal agencies, including law enforcement agencies, to conduct such investigations and furnish such reports as may be necessary. ~~Investigations as to financial status may not be made prior to the adjudicatory hearing provided for in 41-3-404.~~

(2) Upon receipt of a petition, the court shall set a date for an adjudicatory hearing on the petition. Such petitions shall be given preference by the court in setting hearing dates.

(3) A petition alleging abuse, neglect, or dependency is a civil action brought in the name of the state of Montana. The rules of civil procedure shall apply except as herein modified. Proceedings under a petition are not a bar to criminal prosecution.

(4) The parents or parent, guardian, or other person or agency having legal custody of the youth named in the petition,

Committee Vote:

Yes /, No +.

221027SC.Hss

if residing in the state, shall be served personally with a copy of the petition and summons at least 5 days prior to the date set for hearing. If such person or agency cannot be served personally, the person or agency may be served by publication in the manner provided by the Montana Rules of Civil Procedure for other types of proceedings.

(5) In the event personal service cannot be made upon the parents or parent, guardian, or other person or agency having legal custody, the court shall appoint an attorney to represent the unavailable party where in the opinion of the court the interests of justice require.

(6) If a parent of the child is a minor, notice shall be given to the minor parent's parents or guardian, and if there is no guardian the court shall appoint one.

(7) Any person interested in any cause under this chapter has the right to appear.

(8) Except where the proceeding is instituted or commenced at the request of the department of family services, a citation shall be issued and served upon a representative of the department prior to the court hearing.

(9) The petition shall:

(a) state the nature of the alleged abuse, neglect, or dependency;

(b) state the full name, age, and address of the youth and the name and address of his parents or guardian or person having legal custody of the youth;

(c) state the names, addresses, and relationship to the youth of all persons who are necessary parties to the action.

(10) The petition may ask for the following relief:

(a) temporary investigative authority and protective services;

(b) temporary legal custody;

(c) termination of the parent-child legal relationship and permanent legal custody with the right to consent to adoption;

(d) any combination of the above or such other relief as may be required for the best interest of the youth.

(11) The petition may be modified for different relief at any time within the discretion of the court.

(12) The court may at any time on its own motion or the motion of any party appoint counsel for any indigent party."

Renumber: subsequent section

HOUSE STANDING COMMITTEE REPORT

January 28, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 211 (first reading copy -- white) do pass as amended .

Signed: _____

Wm E Boharski

Bill Boharski, Chair

And, that such amendments read:

1. Title, line 5.

Following: " ; "

Insert: "AND"

2. Title, lines 6 and 7.

Strike: " ; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE "

3. Page 13, lines 16 and 17.

Strike: section 3 in its entirety

Committee Vote:
Yes 12, No 0.

220959SC.Hss

CASH PAYMENT OPTION:

The last option to consider is the proposal the Department has submitted in the budget which allows a cash payment equal to the amount of the client's incurment (similar to a deductible). Currently, clients cannot establish Medically Needy coverage until they have incurred medical expenses equal to their deductible. The clients are responsible to pay 100% of the deductible expenses, and coverage begins the day the deductible is met. That could be anywhere from the first day of the month until the last day of the month.

Under the cash payment proposal, Medically Needy clients may choose to meet their deductible obligation by either incurring medical expenses or making a cash payment equal to the amount of their deductible. If the cash payment is chosen, eligibility begins the first day of the month and a Medicaid card is mailed which is exactly the same as the card AFDC and SSI recipients receive. Under this method, Medicaid pays for all covered services in the month.

For clients who choose not to pay the cash, but wish to continue to incur bills, a Medicaid card is also issued the first day of the month. However, this card is different because it specifies the client has a Medically Needy deductible to meet. This is similar to health insurance programs non-assistance persons have, such as a Blue Cross/Blue Shield identification card.

The difference is these cards are issued monthly, with the benefit month clearly distinguished on the card. One of the changes in administrative procedures in processing these cases is that our MMIS agent, Consultec, would track all medical bills submitted and apply them, in the order received, to the client's deductible. Once the deductible is met, Medicaid payments are issued for all remaining bills within the month.

To illustrate why the cash payment option is a cost savings to the state, compare the following: (Assume in both circumstances a client had a \$100 deductible.)

Current Policy:

1. Client must incur \$100 in medical services;
2. Client must arrange a payment agreement with the medical provider;
3. Client is responsible to pay the full \$100; and
4. Medically Needy coverage does not begin until the day the deductible is met.

Proposed Policy:

1. Client pays the Medically Needy Program \$100 cash;
2. Medically Needy coverage begins the first day of the month, so providers do not pursue client payment agreements or collections from clients;
3. Medicaid covered services are paid at the Medicaid rate (approximately 65%); and
4. The Medically Needy Program realizes \$35 (\$100 cash collected minus \$65 paid) which could be used as a match for other medical costs.

NOTE: Of the 65% reimbursed to the provider, 71% is federal matching funds and 29% is state matching funds. This means that the actual amount realized to the Medically Needy Program is $\$35 + \$46 = \$81$!

Amendments to House Bill No. 225
First Reading Copy

EXHIBIT
DATE 1/27/93
HB 225

For the Committee on Human Services and Aging

Prepared by David S. Niss
January 26, 1993

1. Page 2, line 15.

Following: "facility"

Insert: ", as defined in 53-24-103(3)(b),"

Amendments to House Bill No. 75
First Reading Copy

For the Committee on Human services and Aging

Prepared by David S. Niss
January 27, 1993

1. Title, lines 6 and 7.

Strike: "CREATING A COMMISSION TO"

Insert: "PROVIDING FOR"

2. Title, line 7.

Following: "REVIEW"

Insert: "OF"

Following: "BENEFITS"

Insert: "BY THE INSURANCE COMMISSIONER"

3. Title, lines 7 and 8.

Strike: "APPROPRIATING MONEY FOR THE COMMISSION;"

4. Page 1, line 17.

Strike: "commission"

Insert: "insurance commissioner"

5. Page 1, line 24; page 2, line 7 (first use); page 4, lines 8, 11, 12, 17, 19, 22, and 24; page 5, lines 1, and 6.

Strike: "commission" or "Commission"

Insert: "commissioner" or "Commissioner"

6. Page 5, line 4.

Strike: "commission's"

Insert: "commissioner's"

7. Page 2, lines 7 and 8.

Strike: the second "commission" on line 7 through "[section 2]" on line 8

Insert: "commissioner of insurance provided for in 2-15-1903"

8. Page 2, line 20, through page 4, line 7.

Following: "Section 2." on line 20

Strike: the remainder of line 20 through line 7 on page 4

Insert: "Commissioner to review proposal for mandated benefits."

(1) An individual, person, group, or association intending to present a proposal for a mandated benefit to the legislature shall present the proposal to the commissioner at least 6 months before the convening of a regular session of the legislature. The proposal submitted to the commissioner must contain those matters required by [section 5] and must conform to the rules of the commissioner.

(2) The proposal submitted to the commissioner must be accompanied by a fee in an amount set by the rules of the commissioner. The fee must be commensurate with the commissioner's costs of review. Any unused part of the fee must be refunded to the individual, person, group, or association presenting the proposal."

Renumber: subsequent subsection

9. Page 4, line 19.

Strike: "its"

Insert: "a"

10. Page 4, line 25

Following: "hearing."

Insert: "The advisory council created in [section 4] shall attend the hearing and advise the commissioner concerning the matters contained in the proposal submitted to the commissioner."

11. Page 5, lines 10 through 14.

Strike: subsection (6) in its entirety

12. Page 5, lines 15 through 25.

Following: "Section 4."

Strike: the remainder of section 4.

Insert: "Advisory council -- membership -- compensation --

meetings. (1) The commissioner shall appoint an advisory council to advise the commissioner concerning the duties of the commissioner under [section 3]. The council consists of nine members. The commissioner of insurance or a designee and the director of the department of health and environmental sciences or a designee shall serve as nonvoting members. The remaining seven members are voting members. The seven members must be appointed by the commissioner as follows:

(a) one representative of the general public who is not employed in the insurance industry or in the provision of health care and who is not an officer or employee of a labor organization;

(b) one administrator of a health care facility, as defined in 50-5-101;

(c) one health care provider who is not actively employed

in the mental health, mental illness, or addictive disease treatment field;

(d) one licensed or certified mental health, mental illness, or addictive disease care provider;

(e) one employer who is not active in the health care or insurance field;

(f) one representative of a collective bargaining labor organization; and

(g) one representative or licensed insurance producer of a company or organization licensed to provide disability insurance in Montana.

(2) Each council member appointed by the commissioner shall serve a 4-year term, except that the commissioner shall designate four of the initial members to serve 4-year terms and three to serve 2-year terms. A member appointed to fill a vacancy shall serve until the end of that term.

(3) The council shall elect one of its members as presiding officer and one as vice presiding officer.

(4) Except as provided in this section, the council must be appointed, compensated, reimbursed, and administered as provided in 2-15-122.

(5) The council shall meet at the time required by [section 3(4)] and at other times as requested by the commissioner."

13. Page 13, lines 10 through 14.

Strike: section 7

Renumber: subsequent section

EXHIBIT 3
DATE 1/27/93
HB 75

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. SB 80
DATE 1/27/13 SPONSOR(S) Sen. Kennedy

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Steve Wilson	MIRACLE EAR	X	
Mary Lou Garrett	Bd of Hearing Aid Disp		
Ben Hovdahl	Bd of Hearing Aid Disp	X	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Human Services COMMITTEE BILL NO. H/P 309
DATE 1/27/93 SPONSOR(S) Rep. Kuster

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Linda Van Diest	SRS	X	
Kate Cholent	MTT Womens lobby	X	

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