

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BOB CLARK**, on March 13, 1995, at
8:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

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

Committee Business Summary:

Hearing: NONE
Executive Action: SB 133 TABLE
SB 185 BE CONCURRED IN AS AMENDED
SB 189 BE CONCURRED IN AS AMENDED
SB 212 BE CONCURRED IN
SB 402 BE CONCURRED IN AS AMENDED
HB 517 RECONSIDER ACTION
HB 517 RECONSIDER ACTION POSTPONED

{Tape: 1; Side: A}

EXECUTIVE ACTION ON SB 402

Information: EXHIBIT 1 was supplied to the committee for information as requested by REP. LOREN SOFT.

Motion: REP. BILL CAREY MOVED SB 402 BE CONCURRED IN.

Motion: REP. DANIEL MC GEE MOVED TO AMEND SB 402. EXHIBIT 2

Discussion: REP. MC GEE explained the amendments as being concurrent with the intent of the bill to provide that parents are responsible for medical care for their children. Further the amendments would define a program administrator and would remove the language which would make an employer responsible for any penalties.

REP. JOAN HURDLE asked how this would apply if the employer and the parent were friends.

REP. MC GEE said that the responsibility would fall on the parent. An employer may or may not be a friend to the parent but under the present language the employer would be made an administrative arm of the agency without any judicial process.

REP. HURDLE asked if he was assuming from the amendment that parents would pay voluntarily with no remedial actions needed.

REP. MC GEE answered that with the amendment the parent would still be responsible and held accountable by the department and penalized for any failure to pay and the employer would still withhold from the employee's pay, but his amendments would provide that the employer would not be penalized. The regulation as written provided that the department could discipline the employer, but that the employer could not discipline the employee who had the problem and the responsibility.

REP. HURDLE said she was worried if the employer did not have to collect the medical coverage payment and did not want to, he could fire the employee if this provision were struck; or he could ignore the order completely. Because employers are depended upon to collect this and other withholdings, she did not see how they could expect it without the almost forced cooperation of the employer.

REP. MC GEE said that was exactly his argument. He said the employers had no representation with those agencies requiring the withholding and there was no due process for the employers. He asserted that this amendment would provide the due process.

REP. DEBBIE SHEA asked for clarification about the intent of the amendment.

REP. MC GEE said that although he did not like employers being told to withhold, he was not striking that section. He was making provision for the employer to deal with the employee in areas of discipline or discharge.

REP. SHEA asked why the provision was in the bill.

REP. MC GEE answered that it was because it is easier to collect it from an employer than from a parent.

REP. DUANE GRIMES said his understanding of the result of striking that section was that it would provide for discrimination against an employee because they had a medical support order. He did not see that it limited an employer at all from taking any action against an employee for other than a medical support order. He asked for the sponsor's intention.

REP. MC GEE proposed that if there were an employee who was disgruntled about having to pay the insurance the employee could develop an attitude problem because of it which would reflect on his work and behavior in the work place. He said that under the bill as written, the employer would not have the freedom to exercise disciplinary action.

REP. GRIMES suggested that to solve the problem, language could be added to say that it was not construed to mean that normal disciplinary procedures couldn't be enforced for behavioral and performance problems.

REP. ELLEN BERGMAN asked if the employee's job would be protected no matter what he was doing or not doing so that the employer did not have any recourse even if he didn't pay the support.

REP. MC GEE explained again the intent behind his amendment.

REP. LIZ SMITH suggested that since the section did not fall under a federal mandate that they completely revise the section and instead of making it a penalty, offer an incentive to the employer through a tax credit on wages withheld to provide medical support. She felt this would stimulate hiring and therefore stimulate payment of the support.

REP. WILLIAM BOHARSKI did not agree with REP. SMITH, did agree with REP. MC GEE and felt the concerns of REP. GRIMES were addressed on lines 16 and 17. He said he would support striking that subsection, but he did not think it would make it any stronger than saying that the sole proof was on the parent that that was the only reason for discharge or discipline. He also asked what the result would be in changing the plan administrator definition.

REP. MC GEE said the plan administrator was not defined in the act at all.

REP. BOHARSKI asked for a practical application of the duties and responsibilities of the plan administrator.

John MacMaster explained that the written language at the bottom of the amendment meant they were striking part of the bill and inserting new language. Instead, when the definition was written, he corrected it in handwriting during the draft. The term is not currently defined in the bill but the amendment would define it.

REP. DEB KOTTEL read subsection 4 as a discrimination section and saw it as parallel to other statutes which say that an employer can discharge because of a workers compensation claim. She said it was parity under the law for public policy reasons. She believed that subsection (b) on line 16 could be misinterpreted and suggested an amendment after "that" strike "a" and insert "the issuance of the medical support order was the sole reason of the employer's action." Additionally on line 19, strike "not less than" and insert "not more than." She explained the reasons behind the amendments.

REP. MC GEE referred to line 15 and asked if that language should also be changed to conform to the proposed language above.

REP. KOTTEL thought so and referred the conforming language to Mr. MacMaster to work out.

REP. BOHARSKI and REP. KOTTEL continued to define the language and the intent was determined to limit that the action against an employer could only be brought if discharge or failure to hire was based on discrimination because of the medical support order.

Mr. MacMaster suggested inserting the word, "solely," after "parent" on line 15.

REP. MC GEE accepted that as a friendly amendment to amendment number 3.

Motion: REP. KOTTEL MOVED A SUBSTITUTE AMENDMENT, LINE 14, SUBSECTION 4, SUBSECTION (A), "A PAYOR WHO IS AN EMPLOYER MAY NOT DISCHARGE, REFUSE TO EMPLOY OR TAKE OTHER DISCIPLINARY ACTION AGAINST AN OBLIGATED PARENT SOLELY FOR BEING UNDER A MEDICAL SUPPORT ORDER." LINE 16, "THE OBLIGATED PARENT HAS THE BURDEN OF PROVING THAT" AND (DELETE A), THEN INSERT "THE ISSUANCE OF THE" SUPPORT ORDER WAS THE SOLE REASON FOR THE EMPLOYER'S ACTION. LINE 19, "THE MEDICAL SUPPORT. THE TRIBUNAL MAY IN ADDITION IMPOSE A CIVIL PENALTY OF NOT" STRIKE "LESS" AND INSERT "MORE THAN \$150."

Motion: REP. BOHARSKI MOVED A SUBSTITUTE AMENDMENT TO REP. KOTTEL'S SUBSTITUTE AMENDMENT TO INSERT THE PERIOD FOLLOWING \$150 AND STRIKE THE BALANCE OF THE SENTENCE.

Discussion: REP. KOTTEL accepted the substitute amendment and REP. MC GEE agreed to all of the substitute amendments to his original amendment. REP. CAREY opposed the substitute amendment because he thought employers would just pay the \$150 and would not enforce the withholding.

REP. KOTTEL agreed but did not oppose the substitute amendment because there is a wrongful termination statute in Montana which would allow civil remedy for the individual to sue the employer.

REP. MC GEE explained his support of the amendments and reiterated that the remedy was in current statute.

REP. GRIMES supported the amendment although he thought it was much ado about nothing since other statutes covered it. He said that there were termination issues and recruitment issues which would take precedence over all of these issues.

Vote: The motion on the substitute amendment carried 13 - 5, REPS. WYATT, CAREY, HURDLE, SHEA and MC CULLOCH voting no.

Vote: The motion on the Kottel amendment carried 18 - 0.

Discussion: REP. CAREY asked for further discussion on amendment number 1 by REP. MC GEE.

REP. MC GEE said that during testimony the purpose was stated as making parents responsible. The other statement about whether or not the parent voluntarily does so reflected language in the bill.

REP. CAREY wondered about the employer using this as a way to absolve themselves from the responsibility to withhold.

REP. MC GEE felt it was important to state the intent clearly.

REP. CAREY asked what would happen if the parent could not pay and that parent is ultimately responsible.

REP. MC GEE said if they were not able to pay, they would not be earning a wage and therefore not employed and so it would not affect the employer. The parent is ultimately responsible whether or not they agree to it or can afford it.

REP. SHEA said she did not think the goal was to make the parent ultimately responsible but that there needed to be child support. She did not think the agency was trying to teach them a lesson but that somebody needs to take the responsibility.

REP. CHRIS AHNER asked if she was saying that the employer was ultimately responsible.

REP. SHEA said the ultimate thing was to take care of the kids and somebody has to do it.

REP. AHNER re-asked her question and REP. SHEA said the department was not lecturing or trying to teach values to a parent, but only trying to collect money for the kids.

REP. AHNER clarified that she wanted to be sure that REP. SHEA was not saying that if the parent didn't pay, the employer should.

REP. MC GEE said it was already in the language in the law under the statement of purpose and his amendment number 1 simply reiterated it.

Without objection from the committee, **Mary Ann Wellbank, Department of Social and Rehabilitation Services**, said that she did not remember that language as being in the bill but she did reiterate her testimony that parents are ultimately responsible and if the parents do not pay for medical support and go on Medicaid, the state would have to pay. She said the means of enforcement is through the employers' withholding of the premiums.

REP. LINDA MC CULLOCH asked where the new language came from for amendment number 2 and if it was consistent with other existing codes dealing with the same thing.

Mr. MacMaster said the language came from the Department of Family Services (DFS) agreed upon during a staff conference with him.

REP. MC CULLOCH asked if "written by that entity" stayed in the amendment and Mr. MacMaster said it did not.

REP. MC CULLOCH asked for a further explanation of amendment number 4 on page 12, line 17.

REP. MC GEE said it was designed to go back to the ultimate responsibility of the parent.

REP. MC CULLOCH was concerned that it would let the employer off the hook and REP. MC GEE re-explained that it was taken care of under section 4.

REP. CLIFF TREXLER said he still had problems with the wording, "or take other disciplinary action against" and asked for clarification. He and REP. MC GEE continued to discuss the ramifications of this language in cases where employees were not doing their job because of child support disputes.

REP. GRIMES questioned REP. MC GEE about his amendments on page 12 and asked how much the employer's maximum liability would be.

{Tape: 1; Side: A; Approx. Counter: 62.6}

REP. LOREN SOFT explained the disciplinary process between employer and employee based on work performance and just cause terminations versus what this bill proposed.

Motion/Vote: REP. SHEA MOVED THAT AMENDMENTS 1 AND 2 BE SEGREGATED FROM AMENDMENT 4. The motion carried unanimously.

Vote: The motion on amendments 1 and 2 carried unanimously.

Discussion: REP. KOTTEL described her reasons for opposing amendment number 4. She said she wanted judges to be held to a \$25-per-day civil penalty so that excessive penalties would not be imposed on employers. She planned to oppose the amendment.

{Tape: 1; Side: B}

Without objection from the committee, Ms. Wellbank addressed the issue. She said that if the court issued the order to the employer, then the court and not the administrative agency could find the employer in contempt. In those types of orders, it might be an order to the obligor rather than to the employer and therefore, contempt would not apply. Furthermore, the agency would have no authority to make them comply without it.

Mr. MacMaster explained that he did not view section 21 on page 12 as being a contempt section but that they could be found in contempt in addition to imposing the civil penalty and he thought that was the reason that section was included. Line 18 on page 10 dealt with the contempt issue, but the section on page 12 dealt with the possibility of an additional civil penalty. The court can always find someone in contempt for disobeying the order whether it is stated in any bill.

REP. KOTTEL asked what the likelihood was that the wording on lines 20 and 21 meant a predisposition of a civil penalty rather than only a contempt charge. Without that wording, the court could only impose a contempt hearing. With a civil penalty provision, the penalty can be imposed over and over without the extended contempt hearing action. She asked if it offered the court the option to avoid the contempt action while allowing the civil penalty to be imposed.

Mr. MacMaster agreed and said he could not imagine a judge imposing both penalties unless they thought the \$25 penalty under the bill was not enough.

REP. BOHARSKI recommended the withdrawal of the amendment and REP. MC GEE agreed.

Motion: REP. BOHARSKI MOVED TO AMEND THE TITLE ON LINE 7 TO STRIKE "ENACTING FEDERAL LEGISLATION AS REQUIRED;." STRIKE "NECESSARY" ON LINE 13 AND INSERT "APPROPRIATE." STRIKE "TO MAINTAIN ADEQUATE LEVELS OF FEDERAL FUNDING AND" ON LINE 14.

Discussion: REP. MC GEE opposed the amendment because he felt the language should reflect the real reason behind the bill.

Vote: The motion carried 14 - 4, REPS. SHEA, ANDERSON, HURDLE, and MC CULLOCH voted no.

Discussion: Mr. MacMaster explained a clean-up amendment.

Motion/Vote: REP. DIANA WYATT MOVED TO AMEND PAGE 24 LINES 12 THROUGH 14 TO BRING IT INTO CONFORMITY WITH SB 29. The motion carried unanimously.

Motion/Vote: REP. ANDERSON MOVED SB 402 BE CONCURRED IN AS AMENDED. The motion carried 16 - 2, REPS. SMITH and BOHARSKI voted no.

EXECUTIVE ACTION ON HB 517

Motion: REP. SHIELL ANDERSON MOVED TO RECONSIDER ACTION ON HB 517.

Discussion: CHAIRMAN CLARK explained to the committee that when the executive action was taken on HB 517, REP. ANDERSON was absent and his vote which was cast in his absence was cast in opposition to his wishes. Therefore, this would be the purpose to reconsider the action.

REP. ANDERSON explained this bill would allow for noncalculable (sic) damages to be paid back to the time of the complaint at 10% interest, the proceeds to go to the state. He said he was going to vote for the reconsideration motion and against the bill because he had a hard time reconciling interest being attached to the noncompensatory damages. He said that many times the noncompensatories came out at an undetermined amount and a included large spectrum of types of damages. He thought there would be a difficult time reconciling those damages with 10% interest thereon with the legislation which capped noncompensatory damages to \$250,000 for the purpose of making medical care more affordable.

He did not think 10% reflected the actual cost of money and that it was persuasive that when noncompensatory damages are awarded at the time of the verdict, they were often related back to the time of the complaint. For those reasons and for the reason of trying to curb the expense of noncompensatory damages, he reiterated his motion to reconsider.

REP. KOTTEL asked the committee to oppose the motion to reconsider. She expounded on her reasons and asked that she be given the chance to make her arguments on the floor of the House and let the bill be considered there.

REP. ANDERSON explained that he had asked the chairman to hold this bill as well as some others since he had to be out of the committee to present bills in another committee. He believed that had his vote been cast as he wished it, the bill would have died in committee. He thought they would save themselves time if they disposed of the bill in committee rather than on the House floor.

REP. MC GEE asked if he had cast a vote for that bill and **REP. ANDERSON** answered that he had not, but had left a note asking that the bill not be considered in his absence. He had left a blanket proxy for other bills to be voted with the chairman's votes.

REP. BOHARSKI said he was also absent for the vote on this bill and would have voted against the bill. It was his understanding that there was not going to be executive action on it while he was absent and therefore had not left a proxy.

Vote: The motion to reconsider HB 517 carried 9 - 8 by roll call vote.

CHAIRMAN CLARK said they would postpone action until copies of the bill could be supplied to the committee.

EXECUTIVE ACTION ON SB 212

Motion: **REP. ANDERSON** MOVED SB 212 BE CONCURRED IN.

Discussion: **REP. BOHARSKI** said he did not have any use for joint liability. He said that a compromise was reached previously which allowed the 50% joint and several liability. It was his belief that this bill tended to hold with public policy and therefore it should pass.

REP. HURDLE spoke against the bill. She felt it spread responsibility too far and eliminated some liability.

REP. KOTTEL spoke in favor of the bill and like **REP. BOHARSKI** was not sure it would hold up in court. She stood for the principle that when someone was under 50% liable for their actions and either an immune defendant or a defendant who had settled out of court, it was not fair for that person who was left in the courtroom to hold the bag for the balance of the liability. This bill would allow the jury to determine liability under 50% to allocate some of it to the immune or the settled-out plaintiff and then to only leave the defendant who remained in court to pay that percentage which the jury had found them to be liable for. She said that seemed fair and that nothing forces a plaintiff to settle with another joint tortfeasor. If the plaintiff is unsure as to who is liable in terms of percentage, it is to the plaintiff's advantage to keep both tortfeasors in the action and

bring them both into the court to allow the jury to make the determination.

REP. MC GEE asked if she read the bill to allow a defendant in a case to testify that they had had a conversation which would have given information resulting in shared liability.

REP. KOTTEL said the fear of the opponents was that it would produce an empty chair in the courtroom and the disclosure of the conversation would result in the jury ascribing more blame on the person represented by the empty chair (absent from the courtroom) than the present defendant. Her opinion was that the bill would allow the attorney to let the jury hear about the other defendant and it would allow the plaintiff to defend the other person. She said that would put an additional burden on the plaintiff, but the plaintiff settled out of court with that other defendant who was not in the courtroom.

REP. HURDLE objected to the concept that someone could pass up their responsibility for public safety through a casual conversation with a third party.

Vote: The motion carried to concur in SB 212, 16 - 2, REPS. **HURDLE** and **WYATT** voted no.

EXECUTIVE ACTION ON SB 189

Motion: **REP. MC CULLOCH** MOVED SB 189 BE CONCURRED IN.

Motion/Vote: **REP. SOFT** MOVED TO AMEND PAGE 3, LINE 9 AS PROPOSED BY THE SPONSOR. The motion carried unanimously by voice vote.

Motion/Vote: **REP. MC CULLOCH** MOVED TO AMEND PAGE 4, LINE 6 AS PROPOSED BY THE SPONSOR. The motion carried 17 - 1, **REP. BOHARSKI** voted no.

Motion: **REP. AHNER** MOVED SB 189 BE CONCURRED IN AS AMENDED.

Discussion: **REP. BOHARSKI** asked for an explanation and the compelling reason for the Senate's amendments on lines 11 through 14.

REP. HURDLE explained that it would allow the Department of Justice the authority to act on a tribal agreement. **CHAIRMAN CLARK** said that was essentially correct and that there were no opponents to the bill. **REP. SOFT** read his notes based on testimony from the department.

REP. BOHARSKI and **CHAIRMAN CLARK** discussed the ramifications of the bill which had been detailed in the hearing.

Vote: The motion carried 16 - 1, **REP. BOHARSKI** voted no.

EXECUTIVE ACTION ON SB 133

Motion: REP. WYATT MOVED SB 133 BE CONCURRED IN.

Motion: REP. KOTTEL MOVED TO AMEND SB 133 TO READ, "EACH PARTY IS ENTITLED TO FOUR PRE-EMPTORY CHALLENGES IN A 12-PERSON JURY AND THREE PRE-EMPTORY CHALLENGES FOR ALL JURIES LESS THAN 12."

Discussion: Mr. MacMaster thought it would be taken care of by deleting the amendment on line 7.

Motion/Vote: REP. KOTTEL MOVED A SUBSTITUTE AMENDMENT TO LEAVE THE WORDS, "NOT TO EXCEED FOUR." ON LINE 7, PAGE 2. The motion carried unanimously by voice vote.

Discussion: REP. BOHARSKI said there had been a long-standing tradition in Montana which would be changed by the bill and he did not see a compelling reason to do so. He planned to move to table the bill.

REP. HURDLE asked if there was a question about line 14 on page 1 as to whether the word should be civil or criminal.

CHAIRMAN CLARK believed that since "criminal" was not addressed in the title of the bill, there was a question as to whether it should be addressed at all in the bill as it was on line 14. He stated that Mr. MacMaster said the language was in there because of lines 17 - 19 and they wanted it clear that a criminal trial would still have 12 jurors.

REP. BILL TASH recounted his notes on the bill and that it was inconsistent with federal court rules.

Motion/Vote: REP. TASH MOVED TO TABLE. The motion carried 15 - 3, REPS. CAREY, WYATT and KOTTEL voted no.

EXECUTIVE ACTION ON SB 185

Motion: REP. AHNER MOVED SB 185 BE CONCURRED IN.

Motion/Vote: REP. SMITH MOVED TO AMEND SB 185. EXHIBIT 3 The motion carried unanimously.

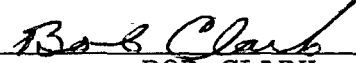
Motion/Vote: REP. AHNER MOVED SB 185 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

Motion: REP. CAREY MOVED TO ADJOURN.


{Comments: This set of minutes is complete on one 60-minute tape.}

ADJOURNMENT

Adjournment: The meeting was adjourned at 12 noon.



BOB CLARK, Chairman



JOANNE GUNDERSON, Secretary

BC/jg

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 3/13/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓ 11:35	/	
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		



HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 402** (third reading copy -- blue) be concurred in as amended.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Kottel

And, that such amendments read:

1. Title, line 7.

Strike: "ENACTING FEDERAL LEGISLATION AS REQUIRED;"

2. Page 1, line 13.

Strike: "necessary"

Insert: "appropriate"

Strike: "enacting federally required legislation in order"

3. Page 1, line 14.

Strike: "to maintain adequate levels of federal funding and"

4. Page 1, line 17.

Following: "bills"

Insert: "; and

WHEREAS, parents should be held responsible for providing medical care for their children, whether or not the parents voluntarily do so"

5. Page 3.

Following: line 11

Insert: "(12) "Plan administrator" means the person or entity that assesses and collects premiums, accepts and processes claims, and pays benefits."

Renumber: subsequent subsections

Committee Vote:
Yes 16, No 2.

581313SC.Hbk

6. Page 10, line 15.

Strike: "for being under"

Insert: "solely because of the issuance of"

7. Page 10, line 16.

Strike: "a"

Insert: "the issuance of the"

8. Page 10, line 19.

Strike: "less"

Insert: "more"

9. Page 10, lines 19 through 23.

Strike: "and order" on line 19 through "fund" on line 23

10. Page 24, line 12.

Strike: "a temporary or final"

Insert: "an"

Strike: "for the periodic payment of a set".

11. Page 24, line 13.

Following: line 12

Strike: "or"

Insert: "a"

Strike: "of money"

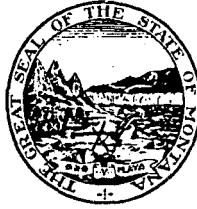
Following: "~~funds for~~"

Insert: "temporary or final periodic payment of funds for"

12. Page 24, line 14.

Strike: "including" through "the child,"

-END-



HOUSE STANDING COMMITTEE REPORT

March 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 212 (third reading copy -- blue) be concurred in.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Anderson

Committee Vote:
Yes 16, No 2.

591251SC.Hbk



HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 189** (third reading copy -- blue) be concurred in as amended.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Hurdle

And, that such amendments read:

1. Page 3, line 9.

Following: "STATE."

Insert: "Action by the department under this subsection is not reviewable under 61-8-403."

2. Page 4, line 6.

Insert: "(5) This section does not grant a right of appeal to a state court if a driver's license is initially seized, suspended, or revoked pursuant to a tribal law or regulation that requires alcohol or drug testing of motor vehicle operators."

-END-

Committee Vote:

Yes 16, No 1.

3/13 mm

581315SC.Hbk



HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 185 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Page 3, line 10.

Following: "relief"

Insert: ", which must include an order that the department reimburse the petitioner for court fees paid by the petitioner"

-END-

Committee Vote:
Yes 18, No 0.

581318SC.Hbk

2-13 *mm*

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 3/13/95

I request to be excused from the _____
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with _____.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
212	X	
189	X	
all amendments by Linda Mc		
133	X	(No TABLING)
all amend by Linda Mc		
185	X	
all amend by Linda Mc		

SENATE BILL/AMENDMENT	AYE	NO

Rep. *[Signature]*
(Signature)

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE March 13, 1995

I request to be excused from the Judiciary
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Arthur Curtis.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
SB 402		X
amendments	X	
HB 517		X
212	X	
189	X	
133 <i>tabled</i>		
185	X	

SENATE BILL/AMENDMENT	AYE	NO

Rep. Loj Smith
(Signature)

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Judiciary Committee

DATE 3/13/95 BILL NO. HB517 NUMBER _____

MOTION: To Reconsider Action

NAME	AYE	NO
Rep. Bob Clark, Chairman	✓	
Rep. Shiell Anderson, Vice Chairman, Majority	✓	
Rep. Diana Wyatt, Vice Chairman, Minority		✓
Rep. Chris Ahner	✓	
Rep. Ellen Bergman		✓
Rep. Bill Boharski	✓	
Rep. Bill Carey		✓
Rep. Aubyn Curtiss	✓	
Rep. Duane Grimes	✓	
Rep. Joan Hurdle		✓
Rep. Deb Kottel		✓
Rep. Linda McCulloch		✓
Rep. Daniel McGee	✓	
Rep. Brad Molnar		
Rep. Debbie Shea		✓
Rep. Liz Smith		✓
Rep. Loren Soft	✓	✓
Rep. Bill Tash		
Rep. Cliff Trexler	✓	

EXHIBIT 1
DATE 3/13/95
SB 402

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

MARCRACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

FAX # (406) 444-1370
(406) 444-4614

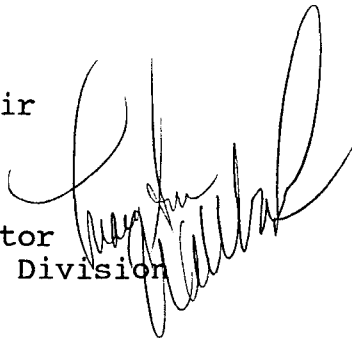
3075 N MONTANA, SUITE 112
PO BOX 202943
HELENA, MONTANA 59620-2943

March 7, 1995

TO: Representative Bob Clark, Chair
House Judiciary Committee

FROM: Mary Ann Wellbank, Administrator
SRS Child Support Enforcement Division

RE: Senate Bill 402



Thank you for the hearing yesterday on this legislation. The purpose of this memorandum is to respond to Representative Soft's request for a more detailed explanation of the fiscal note, specifically where general fund savings would be achieved. I hope this information is helpful.

Overview:

The federal Omnibus Reconciliation Act of 1993 sets forth certain mandatory provisions that states must enact or risk loss of federal funding for the state medicaid program. SB 402 meets the requirements of OBRA, but also works for Montana. In developing this legislation, the CSED worked with the SRS Medicaid Division, the Insurance Commissioner's Office and the Department of Labor as well as representatives of industries impacted by this legislation, including Montana insurers, employer groups, such as the NFIB, and unions. We received a substantial amount of public input, and amended our working drafts accordingly to develop sound legislation that meets the needs of Montana families without creating unnecessary burdens on Montana employers and insurers.

The provisions of SB 402 are intended to conserve the expenditure of Medicaid funds and to ensure that children of separated parents have access to health care. This is done by attempting to assure that children of divorced or separated parents have access to reasonable health insurance coverage provided by their parents. The burden for health care will be taken off state and federal governments to the extent possible. The obligation to provide health insurance coverage will be enforced by the SRS Child Support Enforcement Division to a greater extent than is provided by existing law.

Fiscal Impact: Please refer to the attached chart.

The SRS Child Support Enforcement Division would hire three additional FTE to administer this legislation at a total cost of \$129,000 in the FY96 and \$120,000 in FY97, 66% of which would be federally funded. The remaining 34% or \$43,860 in FY96 and \$40,800 in FY97 would be from general fund. Presumably, if this bill is enacted, the Child Support Enforcement Division budget will be increased in the Appropriations Bill by \$43,860 general fund in FY96 and \$40,800 general fund in FY97.

The increases in the CSED budget would be more than offset by a decrease in the FY96 and FY97 SRS Medicaid budgets. The SRS Medicaid Division expects to achieve a savings in Medicaid Benefits of \$285,600 in FY96, 70% of which would be federally funded. The 30% general fund portion of this savings amounts to \$86,423. Presumably, if this bill is enacted, the Medicaid Services Division general fund budget will be decreased in the Appropriations Bill by these amounts.

The net general fund savings is therefore $\$86,423 - 43,860 = \underline{\$42,563}$ in FY96 and $\$97,232 - \$40,800 = \underline{\$56,432}$ in FY97. A savings in federal funds is also achieved in the respective amounts of \$114,037 and \$137,218 in FY96 and FY97.

Additionally, failure to enact the mandatory provisions of the Omnibus Budget Reconciliation Act (OBRA) of 1993 this session will result in severe financial sanctions to the state Medicaid program, which is 70% federally funded. The federal portion of the state Medicaid budget is approximately \$350-400 million per year.

c: Senator Dorothy Eck, Sponsor
Members of House Judiciary Committee

FISCAL IMPACT SB0402:

Expenditures/Benefits:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	3	3
CSED Personal Services	81,000	81,000
CSED Operating	39,000	39,000
CSED Equipment	9,000	0
Total Expenses	129,000	120,000
X FMAP Rate	.34	.34
General Fund Expense	43,860	40,800
Medicaid Benefits	(285,600)	(313,650)
X FMAP Rate	.3026	.3100
General Fund Savings	(86,423)	(97,232)
Total Expense	129,000	120,000
plus Total Savings	(285,600)	(313,650)
Net Total Savings	(156,600)	(193,650)
General Fund Expense	43,860	40,800
plus General Fund Savings	(86,423)	(97,232)
Net General Fund Impact	(42,563)	(56,432)

Funding:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund	(42,563)	(56,432)
State Special	0	0
Federal Fund	(114,037)	(137,218)
Total Funds	(156,600)	(193,650)
Net General Fund Impact:	(42,563)	(56,432)

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Line 1	0	0
Line 2	0	0
Line 3	0	0
Line 4	0	0
Total	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: N/A

TECHNICAL NOTES: N/A

Amendments to Senate Bill No. 402
Third Reading Copy

Requested by Rep. McGee
For the Committee on the Judiciary

Prepared by John MacMaster
March 9, 1995

1. Page 1, line 17.
Following: "bills"
Insert: "; and

WHEREAS, parents should be held responsible for providing medical care for their children, whether or not the parents voluntarily do so"

2. Page 3.

Following: line 11

Insert: "(12) "Plan administrator" means ~~an entity that provides coverage for a child, as required by a medical support order, pursuant to a health benefit plan or under a health or medical insurance policy.~~" written by that entity

Renumber: subsequent subsections

3. Page 10, lines 14 through 23.

Strike: subsection (4) in its entirety

4. Page 12, line 17.

Strike: ", health benefit plan, employer, union, or other payor"

→ the person or entity that assesses and collects premiums, accepts and processes claims, and pays benefits

EXHIBIT 2
DATE 3/13/95
SB 185

Amendments to Senate Bill No. 185
Third Reading Copy

Requested by Rep. Liz Smith
For the Committee on the Judiciary

Prepared by John MacMaster
March 2, 1995

1. Page 3, line 10.

Following: "relief"

Insert: ", which must include an order that the department
reimburse the petitioner for court fees paid by the
petitioner"