EXHIBIT 1
DATE 2/15/13
HB 287

ATTORNEY GENERAL TIM FOX

HB 287: Increased Penalties for Targeting Elderly and Developmentally Disabled People under the Consumer Protection Act

"One in four elderly Montanans fall victim to scams. In 2009, seniors lost an estimated $2.6 million to fraud nationwide. That grew to $2.9 billion in 2010. As a rural state with an older population, Montana is sweet hunting grounds for scam artists." [1]

Provisions of HB 287

HB 287 protects our most vulnerable citizens by providing a powerful deterrent to scammers who target elderly and developmentally disabled Montanans. The maximum civil fine, imposed at the discretion of the judge, for each violation of the Consumer Protection Act is currently $10,000. This bill allows a court to impose an *additional* penalty of $10,000 for each violation if the victim is an older person or a person with a developmental disability.

At least 17 other states[2], including Wyoming, already have provisions for increased or additional penalties for violations perpetrated against vulnerable populations.

The additional penalty is imposed if:

- the Defendant knew (or should have known) that the target of the unfair or deceptive practice was an older or developmentally disabled person; OR
- the older or developmentally disabled person suffers:
  - loss or encumbrance of their home
  - loss of employment or other source of income
  - loss of property set aside for retirement or for personal or family care and maintenance
  - substantial loss of retirement, pension or government benefits payments, or
  - loss of assets essential to their health or welfare

Montana Statistics

In calendar year 2011, the Office of Consumer Protection received 1488 complaints. Of those 1224 people completed the demographic section of the complaint form. From those 1224 demographic complaints, 515 marked that their age is over 60, or 42%.

In calendar year 2012, the Office of Consumer Protection received 1423 complaints. Of those 1204 folks completed the demographic section of the complaint form. From those 1204 demographic complaints, 429 marked that their age is over 60, or 35%.

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[1] Billings Gazette, *Prevention is Key to Stopping Elderly Abuse*, May 24, 2012

[2] Arkansas, California, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Louisiana, Minnesota, Nevada, New York, Pennsylvania, Tennessee, Texas, Wisconsin, and Wyoming

Montana Examples

Recent Consumer Protection cases in Montana where such a penalty would have been appropriate include:

- an elderly man who lived alone and watched a lot of late night television, who was tricked into investing $70,000 in a real estate business scam
- an 84-year-old woman who didn't drive or have a car, who was sold 15 extended warranties for $6,673
- a 78-year-old man who was sold more than $17,000 worth of "work at home" business services, despite numerous attempts to cancel his contract

Definitions

An "older person" is 60 years old or older.

A person with a "developmental disability" means a disability that:

- is attributable to mental retardation*, cerebral palsy, epilepsy, autism or any other neurologically disabling condition closely related to mental retardation
- requires treatment similar to that required by mentally retarded* individuals
- originated before the individual attained age 18
- has continued or can be expected to continue indefinitely and
- results in the person having a substantial disability

*If passed, HB 123 changes this term to "intellectually disabled"