

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 4, 1997, at 7:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Boharski excused until 8:00 AM.

Members Absent: Reps. Smith and Molnar absent until 8:00 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 36, HB 222 POSTED 1/22/97
HB 321, HB 339 POSTED 1/28/97
Executive Action: SB 36 BE CONCURRED IN
HB 268 DO PASS
HB 321 DO PASS
HB 44 DO PASS AS AMENDED
HB 68 DO PASS AS AMENDED
HB 339 DO PASS AS AMENDED
HB 273 TABLE

EXECUTIVE ACTION ON HB 68

Motion/Vote: REP. DAN MC GEE moved to reconsider HB 68. The motion passed 12 - 7; REPS. WYATT, HURDLE, MC CULLOCH, PEASE, SANDS, KOTTEL and ELLINGSON voting no. (REPS. SMITH, BERGMAN, HANSON and MOLNAR voted yes by proxy. REP. ELLINGSON voted no by proxy.) {Tape: 1; Side: A; Approx. Time Count: 1.3}

Motion: REP. MC GEE moved to amend HB 68. EXHIBIT 1
{Tape: 1; Side: A; Approx. Time Count: 4.6.}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 7.9 - 26.4; Comments: REPS. ELLINGSON, BERGMAN and HANSON arrived at this point in the meeting.}

Motion/Vote: REP. DEB KOTTEL moved to segregate amendments #2 and #6 for vote. The motion to adopt amendments #2 and #6 to HB 68 carried by unanimous voice vote.

Motion: REP. MC GEE moved HB 68 DO PASS AS AMENDED.

Motion: REP. KOTTEL moved a substitute amendment to delete amendment numbers 1, 2, 3, 4, 7, and 8 and language on lines 18, 19, and 20.
{Tape: 1; Side: A; Approx. Time Count: 30.0}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 32.5}

Vote: The motion failed by voice vote.

Motion: REP. MC GEE moved adoption of amendment #5. The motion carried 13 - 4, REPS. KOTTEL, PEASE, HURDLE and SANDS voting no.
{Tape: 1; Side: A; Approx. Time Count: 34.7}

Motion/Vote: REP. MC GEE moved HB 68 DO PASS AS AMENDED. The motion carried 12 - 7, REPS. KOTTEL, SANDS, PEASE, WYATT, ELLINGSON, HURDLE and MC CULLOCH voting no. (REPS. SMITH and MOLNAR voted yes by proxy vote.
{Tape: 1; Side: A; Approx. Time Count: 34.7; Comments: The written proxy votes for this motion were not turned in to the secretary.}

EXECUTIVE ACTION ON HB 44

Motion/Vote: REP. SHIELL ANDERSON moved HB 44 be reconsidered. The motion carried 10 - 6, REPS. WYATT, MC CULLOCH, PEASE, KOTTEL, HURDLE and ELLINGSON voting no.

Motion: REP. DIANE SANDS moved to amend HB 44 EXHIBITS 2 and 3
{Tape: 1; Side: A; Approx. Time Count: 37.5}

Discussion:

{Tape: 1; Side: A; Approx. Time Count: 40.4 - Tape 1; Side B; 4.2}

Motion: REP. CURTISS moved to segregate amendment #4 for vote.

{Tape: 1; Side: B; Approx. Time Count: 4.3; Comments: REP. CURTISS withdrew the motion.}

Motion: REP. ANDERSON moved substitute amendments. EXHIBIT 4

{Tape: 1; Side: B; Approx. Time Count: 5.5}

Discussion:

{Tape: 1; Side: B; Approx. Time Count: 7.7 - 16.1; Comments: Further executive action was suspended until the conclusion of hearings.}

HEARING ON SB 36

Opening Statement by Sponsor: SEN. J.D. LYNCH

{Tape: 1; Side: B; Approx. Time Count: 17.1}

Questions From Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Count: 19.5; Comments: There were no proponents, opponents or informational witnesses. Mr. Greg Petesch from the Code Commission answered committee questions in the absence of SEN. LYNCH.}

Closing by Sponsor:

{Comments: SEN. LYNCH had been excused to attend another committee hearing and did not close.}

HEARING ON HB 222

Opening Statement by Sponsor: REP. SHIELL ANDERSON

{Tape: 1; Side: B; Approx. Time Count: 29.0}

Proponents' Testimony:

JOE MAZUREK, Attorney General

{Tape: 1; Side: B; Approx. Time Count: 32.6; Comments: Urged the committee to table HB 127.}

CHRIS TWEETEN, Attorney General's Office

EXHIBIT 5

{Tape: 1; Side: B; Approx. Time Count: 39.0-Tape 2; Side A; 18.9}

JOHN HARRISON, Former Supreme Court Justice

Opponents' Testimony:

BILL HOOKS, Montana Defender Appellate Office

{Tape: 2; Side: A; Approx. Time Count: 21.0}

JEFFREY RENZ, Assistant Professor

EXHIBIT 6

{Tape: 2; Side: A; Approx. Time Count: 39.8-Tape 2; Side B; 11.5}

SHARON HOFF, Montana Catholic Conference
{Tape: 2; Side: B; Approx. Time Count: 11.7}

RUSSELL HILL, Montana Trial Lawyers Association
{Tape: 2; Side: B; Approx. Time Count: 14.1}

SCOTT CRICHTON, ACLU
{Tape: 2; Side: B; Approx. Time Count: 16.8}

EXHIBIT 7

Questions From Committee Members and Responses:
{Tape: 2; Side: B; Approx. Time Count: 20.0 - Tape 3; Side A;
34.6}

Closing by Sponsor: REP. ANDERSON
{Tape: 3; Side: A; Approx. Time Count: 34.7}

HEARING ON HB 321

Opening Statement by Sponsor: REP. MC CULLOCH EXHIBITS 8 and 9
{Tape: 3; Side: A; Approx. Time Count: 39.7}

Proponents' Testimony:

SCOTT RESTVEDT, Valley Process Server
{Tape: 3; Side: A; Approx. Time Count: 42.6}

EARL ROWE, Bondsman
{Tape: 3; Side: A; Approx. Time Count: 44.0}

DEAN CROW, Valley Process Server
{Tape: 3; Side: B; Approx. Time Count: 0.1}

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 1.5 - 4.0}

Closing by Sponsor: REP. MC CULLOCH
{Tape: 3; Side: B; Approx. Time Count: 4.1}

HEARING ON HB 339

Opening Statement by Sponsor: REP. BILL CAREY
{Tape: 3; Side: B; Approx. Time Count: 4.7}

Proponents' Testimony:

HAROLD HANSER, State DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 7.7}

BRENDA NORDLAND, Department of Justice EXHIBITS 10, 11 and 12
{Tape: 3; Side: B; Approx. Time Count: 11.7}

DIANNE STANLEY, State DUI Task Force EXHIBITS 13 and 14
{Tape: 3; Side: B; Approx. Time Count: 16.3}

PATRICIA SAINDON, Department of Transportation
{Tape: 3; Side: B; Approx. Time Count: 18.0}

MIKE RUPERT, Boyd Andrew and DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 21.7}

LOU ANN HIMEL
{Tape: 3; Side: B; Approx. Time Count: 22.4}

MIKE COLLINS, DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 26.5}

KATHY COLLINS, DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 27.4}

KATHY MC GOWAN, Montana Addiction Services Provider
{Tape: 3; Side: B; Approx. Time Count: 29.5}

BRENDA NORDLAND, Department of Justice

EXHIBIT 15

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 31.3 - 41.0.}

Closing by Sponsor: REP. CAREY
{Tape: 3; Side: B; Approx. Time Count: 41.4}

EXECUTIVE ACTION ON HB 44

{Tape: 4; Side: A; Approx. Time Count: 0.1; Comments: Executive Action on HB 44 was resumed.}

Motion: REP. ANDERSON moved the Department of Corrections Amendments

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 0.2 - 16.2}

Vote: The motion carried by unanimous voice vote.

Motion/Vote: REP. BILL BOHARSKI moved HB 44 DO PASS AS AMENDED. The motion carried 16 - 0. REP. ANDERSON voted aye by proxy.

EXECUTIVE ACTION ON SB 36

Motion/Vote: REP. HURDLE moved SB 36 BE CONCURRED IN. The motion carried 15 - 0.
{Tape: 4; Side: A; Approx. Time Count: 17.0}

EXECUTIVE ACTION ON HB 321

Motion: REP. HURDLE moved HB 321 DO PASS.

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 18.4}

Vote: The motion carried 14 - 1, REP. BOHARSKI voting no.
{Tape: 4; Side: A; Approx. Time Count: 19.2; Comments: REPS.
HANSON, ANDERSON, MOLNAR, SMITH and GRIMES were absent.}

EXECUTIVE ACTION ON HB 339

Motion: REP. DIANE SANDS moved HB 339 DO PASS.

Motion: REP. MC GEE moved to amend HB 339 with an immediate effective date.

{Tape: 4; Side: A; Approx. Time Count: 23.3}

Discussion:

{Tape: 4; Side: A; Approx. Time Count: 24.0 - 26.8}

Vote: The motion carried 14 - 1. REP. BOHARSKI voting no.

Motion/Vote: REP. CHRIS AHNER moved HB 339 DO PASS AS AMENDED.

The motion carried 15 - 0.

{Tape: 4; Side: A; Approx. Time Count: 27.5}

EXECUTIVE ACTION ON HB 273

Motion: REP. MC GEE moved HB 273 DO PASS.

Motion/Vote: REP. LOREN SOFT moved to table HB 273. The motion carried 13 - 2, REPS. CURTISS and KOTTEL voting no.

EXECUTIVE ACTION ON HB 268

Motion: REP. SANDS moved HB 268 DO PASS.

Discussion:

{Tape: 4; Side: A; Approx. Time Count: Time count at the end of executive action in this meeting was not recorded.}

Vote: The motion carried 15 - 0.

Motion/Vote: REP. SOFT moved to adjourn. The motion carried by unanimous vote.

ADJOURNMENT

Adjournment: The meeting was adjourned at 12:10 PM.

Bob Clark

REP. BOB CLARK, Chairman

Joanne Gunderson

JOANNE GUNDERSON, Secretary

BC/jg