

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 5, 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: REPS. ANDERSON and BOHARSKI excused until 8 AM.

Members Absent: REP. SMITH absent until 7:45 AM.

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 127, HB 306, HB 342, HB 346
POSTED 1/28/97
Executive Action: HB 127, HB 187 TABLED
HB 251 DO PASS AS AMENDED
HB 264 DO PASS AS AMENDED
HB 272 DO PASS AS AMENDED
HB 342 DO PASS

EXECUTIVE ACTION ON HB 272

Motion: REP. DAN MC GEE moved HB 272 do pass.
{Tape: 1; Side: A; Approx. Time Count: 1.2; Comments: This set of minutes is recorded on 90-minute tapes.}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 2.2 - 9.9}

Motion/Vote: REP. BRAD MOLNAR moved to amend HB 272 with a sunset clause to expire May 31, 1999. The motion carried 17 - 1, REP. ANDERSON voting no.
{Tape: 1; Side: A; Approx. Time Count: 10.0}

Motion/Vote: REP. MC GEE moved HB 272 DO PASS AS AMENDED. The motion carried 17 - 1, REP. ANDERSON voting no by proxy vote.
{Tape: 1; Side: A; Approx. Time Count: 12.0}

EXECUTIVE ACTION ON HB 264

Motion: REP. CHRIS AHNER moved HB 264 DO PASS.
{Tape: 1; Side: A; Approx. Time Count: 13.0}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 14.8 - 18.0}

Motion: REP. KOTTEL moved to amend HB 264 by striking 5 - 10 in subsection 3.
{Tape: 1; Side: A; Approx. Time Count: 18.1}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 18.2 - 32.7; Comments: REP. KOTTEL withdrew the amendment.}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 35.2-Tape 1; Side B; 0.1}

Motion/Vote: REP. MC GEE moved to amend lines 5 and 6. The motion carried 15 - 3, REPS. MOLNAR, BERGMAN and AHNER voting no.
{Tape: 1; Side: B; Approx. Time Count: 1.8}

Motion/Vote: REP. DEB KOTTEL moved to Table HB 264. The motion failed 6 - 12, REPS. KOTTEL, SANDS, PEASE, MC CULLOCH, HURDLE and ELLINGSON voting aye.
{Tape: 1; Side: B; Approx. Time Count: 8.0}

Motion: REP. MOLNAR moved HB 264 DO PASS AS AMENDED.
{Tape: 1; Side: B; Approx. Time Count: 9.4}

Discussion:
{Tape: 1; Side: B; Approx. Time Count: 10.3 - 18.9}

Vote: The motion carried 11 - 7; REP. TASH voted aye by proxy. REPS. McCULLOCH, PEASE, SANDS, HURDLE, KOTTEL, ELLINGSON and SOFT voting no.

HEARING ON HB 127

Opening Statement by Sponsor: REP. JOHN JOHNSON

{Tape: 1; Side: B; Approx. Time Count: 20.5; Comments: The sponsor requested that the committee table HB 127.}

EXECUTIVE ACTION ON HB 127

Motion/Vote: REP. BILL BOHARSKI moved to table HB 127. The motion carried 20-0.

{Tape: 1; Side: B; Approx. Time Count: 21.4}

HEARING ON HB 342

Opening Statement by Sponsor: REP. BEVERLY BARNHART

{Tape: 1; Side: B; Approx. Time Count: 22.3}

Proponents' Testimony:

ROBERT SPECTER, MSU Bozeman

{Tape: 1; Side: B; Approx. Time Count: 23.5}

KEN WILLETT, University of Montana

{Tape: 1; Side: B; Approx. Time Count: 25.7}

Questions From Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Count: 27.6 - 34.9}

Closing by Sponsor: REP. BARNHART

{Tape: 1; Side: B; Approx. Time Count: 35.0}

EXHIBIT 1

EXECUTIVE ACTION ON HB 342

Motion: REP. GRIMES moved HB 342 DO PASS.

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 0.1 - 8.6}

Vote: The motion carried 18 - 2, REPS. MOLNAR and BOHARSKI voting no.

{Tape: 2; Side: A; Approx. Time Count: 8.7}

EXECUTIVE ACTION ON HB 251

Motion: REP. BOHARSKI moved HB 251 DO PASS.

{Tape: 2; Side: A; Approx. Time Count: 10.1}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 10.5}

Motion/Vote: REP. ELLINGSON moved to amend HB 251 by correcting language on lines 19 and 20 in subsection 2. The motion carried 20-0. (REP. WYATT voted aye by proxy.)

Motion: REP. MC GEE moved HB 251 DO PASS AS AMENDED.

Motion: REP. MC GEE moved to amend line 21 with "other costs that might have been incurred in empaneling a jury."
Tape: 2; Side: A; Approx. Time Count: 15.2 - 15.8

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 15.9}

Motion: REP. KOTTEL moved a substitute amendment to delete "and other costs that might have been incurred by the court."
{Tape: 2; Side: A; Approx. Time Count: 17.5}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 17.6 - 20.7}

Motion/Vote: REP. KOTTEL moved a substitute amendment to strike the same language on line 17. The motion carried 18 - 2, REPS. MOLNAR and BOHARSKI voting no. (REPS. SMITH, SOFT, MC GEE, BERGMAN, and GRIMES voted aye by proxy.)

Motion: REP. SANDS moved HB 251 DO PASS AS AMENDED.
{Tape: 2; Side: A; Approx. Time Count: 25.0}

Motion: REP. MOLNAR moved an amendment to insert "the court shall instruct the jury on this subsection."
{Tape: 2; Side: A; Approx. Time Count: 25.2}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 25.7}

Vote: The motion carried by unanimous voice vote.

Motion/Vote: REP. SANDS moved HB 251 DO PASS AS AMENDED. The motion carried 19-1, REP. WYATT voting no. (REPS. SMITH, SOFT, MC GEE, BERGMAN, and GRIMES voted aye by proxy.)

EXECUTIVE ACTION ON HB 187

Motion: REP. BOHARSKI moved HE 187 DO NOT PASS.
{Tape: 2; Side: A; Approx. Time Count: 31.8}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 34.7}

Motion/Vote: REP. BOHARSKI withdrew the DO NOT PASS motion and moved to table HB 187. The motion carried 18-0. (REPS. AHNER and SMITH voted aye by proxy vote. REPS. MC GEE and GRIMES were absent and submitted no proxy votes.)

{Tape: 2; Side: A; Approx. Time Count: 34.8}

HEARING ON HB 306

Opening Statement by Sponsor: REP. AUBYN CURTISS

{Tape: 2; Side: A; Approx. Time Count: 35.6}

Proponents' Testimony:

ROB NATELSON, Montanan's for Better Government

Tape: 2; Side: A; Approx. Time Count: 39.1}

HERTHA LUND, Montana Farm Bureau

{Tape: 2 Side: B; Approx. Time Count: 0.1}

EXHIBITS 2 & 3

JOHN BLOMQUIST, Montana Stockgrowers

{Tape: 2; Side: B; Approx. Time Count: 6.0; Comments: This proponent did not sign the witness register.}

WALT DUPEA

{Tape: 2; Side: B; Approx. Time Count: 6.7}

JOHN SHONTZ, Montana Association of Realtors

{Tape: 2; Side: B; Approx. Time Count: 7.9}

HENRY BROERS

{Tape: 2; Side: B; Approx. Time Count: 13.6}

EXHIBIT 4

VERDELL JACKSON

{Tape: 2; Side: B; Approx. Time Count: 16.9}

REP. JAY STOVALL

{Tape: 2; Side: B; Approx. Time Count: 19.7}

RICHARD MAUZEY

{Tape: 2; Side: B; Approx. Time Count: 20.8}

Opponents' Testimony:

JIM RICHARD, Montana Wildlife/Montana Association of Planners

{Tape: 2; Side: B; Approx. Time Count: 22.9}

EXHIBIT 5

MIKE MATHEW, MACo

{Tape: 2; Side: B; Approx. Time Count: 26.7}

JIM KEMBEL, City of Billings

{Tape: 2; Side: B; Approx. Time Count: 27.9}

CHRIS CERQUONE, County of Missoula

{Tape: 2; Side: B; Approx. Time Count: 28.6}

EXHIBIT 6

KATHY MACEFIELD, City of Helena EXHIBIT 7
{Tape: 2; Side: B; Approx. Time Count: 32.2}

JANET ELLIS, Montana Audubon Society EXHIBIT 8
{Tape: 2; Side: B; Approx. Time Count: 35.6}

DEBORAH SMITH, Montana Chapter of Sierra Club
{Tape: 2; Side: B; Approx. Time Count: 37.0}

BRUCE BENDER, City of Missoula
{Tape: 3; Side: A; Approx. Time Count: 1.4}

ALEC HANSEN, League of Cities and Towns
{Tape: 3; Side: A; Approx. Time Count: 2.8}

DALE BELAND, Board of Gallatin County Commissioners EXHIBIT 9
{Tape: 3; Side: A; Approx. Time Count: 3.9}

DON MacINTYRE, Executive Branch, State of Montana
{Tape: 3; Side: A; Approx. Time Count: 6.8}

BETH BAKER, Department of Justice EXHIBIT 10
{Tape: 3; Side: A; Approx. Time Count: 9.3}

AIDAN MYHER, Montana Association of HRM Co.
{Tape: 3; Side: A; Approx. Time Count: 12.3}

Proponents:

REP. LARRY "HAL" GRINDE
{Tape: 3; Side: A; Approx. Time Count: 13.3; Comments: Proponents had three minutes remaining on their allotted time and REP GRINDE had not been able to appear during that portion of testimony. The opponent's time was up and the chairman gave the remaining proponent's time to this witness.}

Opponents:

ANN HEDGES, MEIC
{Tape: 3; Side: A; Approx. Time Count: 16.8; Comments: REP. GRINDE went one minute over his allotted time and the Chairman allowed the Opponents equal time.}

TED LANGE EXHIBIT 11
{Tape: 3; Side: A; Approx. Time Count: 18.7; Comments: This witness did not sign in.}

TIM KUNTZ, Montana Trial Lawyers Association
{Tape: 3; Side: A; Approx. Time Count: 18.8}

Questions From Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Count: 19.5 - Tape 3; Side B; 7.2}

Closing by Sponsor: REP. AUBYN CURTISS EXHIBIT 12
{Tape: 3; Side: B; Approx. Time Count: 7.3}

{Comments: This exhibit was submitted after the close of the hearing.} EXHIBIT 13

HEARING ON HB 346

Opening Statement by Sponsor: REP. JOE TROPILA EXHIBIT 14
{Tape: 3; Side: B; Approx. Time Count: 10.9}

Proponents' Testimony:

BRENDA NORDLAND, Department of Justice EXHIBIT 15
{Tape: 3; Side: B; Approx. Time Count: 13.8}

Opponents' Testimony:

RON ASHABRANER, State Farm Insurance EXHIBIT 16
{Tape: 3; Side: B; Approx. Time Count: 19.0}

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 22.9 - 31.8}

Closing by Sponsor: REP. TROPILA EXHIBIT 17
{Tape: 3; Side: B; Approx. Time Count: 31.9}

MOTION/VOTE: REP. MC GEE MOVED TO ADJOURN. The motion carried by unanimous vote.

ADJOURNMENT

Adjournment: The meeting was adjourned at 11:20 AM.

Bob Clark

REP. BOB CLARK, Chairman

Joanne Gunderson

JOANNE GUNDERSON, Secretary

BC/jg