

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 5, 1931

The twentieth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 240:

ESTABLISHING STANDARDS FOR COLLECTON,
USE AND DISCLOSURE OF INFORMATION
GATHERED IN INSURANCE TRANSACTIONS.

Senator Anderson turned the chair over to Vice Chairman O'Hara during the consideration of this bill, and then presented the bill on behalf of the Montana Insurance Department.

Josephine Driscoll, representing the Montana Insurance Department, spoke in support of the bill and suggested that it be changed on page 35, line 25, following "4" by striking "." and inserting "and Title 33, chapter 1, part 7"; and on page 43, by striking lines 3, 4, and 5. She defined the bill as a consumer protection act.

Also speaking in support of the bill were Valencia Lane, of the Montana Insurance Department; Lester Loble, representing the American Council of Life Insurance; and Pat Melby, of the Alliance of American Insurance.

During questioning Valencia Lane stated that the scope of the bill only intended to include personal insurance and not insurance for businesses or commercial transactions.

CONSIDERATION OF SENATE BILL 319:

REQUIRING THE BUDGET DIRECTOR TO
SUBMIT THE JUDICIAL BRANCH BUDGET
WITHOUT CHANGE.

Senator Mazurek carried this bill for Senator Turnage, who had sponsored it at the request of Chief Justice Haswell.

Mike Abley, representing the Montana Supreme Court, said that the bill would eliminate duplicative and an inappropriate and perhaps unconstitutional review of the Court's budget by

the executive branch which is now required in setting up the budget for the judiciary branch of government.

Also speaking in support of the bill was J. C. Weingartner, representing the State Bar Association.

Speaking in opposition to the bill were Dave Lewis and Lyle Manley, from the Office of Budget and Program Planning.

Senator S. Brown felt that the bill had merit, but needed to have included in it language specifically allowing the governor the right to review and recommend changes to the proposed judicial budget in order to present an overall balanced budget.

CONSIDERATION OF SENATE BILL 57:

TO AMEND LAWS ON DISCRIMINATION
IN HOUSING.

Senator B. Brown presented the bill.

Raymond Brown, Administrator of the Human Rights Division, presented a fact sheet (marked Exhibit A and attached to these minutes) and stated that the bill would consolidate state and federal work on human rights actions. He said that the bill called for no additional power, but only combined the efforts of the two agencies.

Gregg Groepper, from the Department of Labor and Industry, supported the bill.

Cliff Christian, representing the Montana Association of Realtors, asked the committee to strike subsection (e), which referred to his group of realtors.

CONSIDERATION OF SENATE BILL 316:

AMEND 7-4-2613 TO REQUIRE COUNTY CLERKS
TO RECORD A DOCUMENT TERMINATING THE
INTEREST OF A DECEASED JOINT TENANT.

Senator Towe presented the bill, which was suggested to him by Jim Moore, of Harlowton. He said that the main problem leading to this bill was that sole survivors of a joint tenancy currently had no certificate to keep with them which proved their sole ownership. He suggested adding a Section 2 which would amend the Montana Codes 72-16-503 by substituting "record" wherever "file" occurred.

Senator Turnage, speaking in support of this bill, suggested that the form which would be recorded should be shortened,

and stated that recorded instruments were stored on microfilm, which would save room.

Also speaking in favor of the bill were Tom Stoll, Administrator of the Inheritance Tax Division of the Department of Revenue; Tom Ryan, Montana Senior Citizens Association; Ed Sheehy, of the Retired Federal Employees; and Bill Romine, representing the Montana Clerk and Recorders Association. Mr. Romine stated that under the proposed system of recording, assessors and abstractors would be able to find the pertinent documents much more easily. Additionally, the forms would not be so easily misplaced.

CONSIDERATION OF SENATE BILL 238:

AN ACT TO PROVIDE COURT COSTS AND ATTORNEY
FEES TO A SUCCESSFUL PLAINTIFF IN ACTION
INVOLVING VEHICLE OWNERSHIP, USE, ETC.

Senator Storey presented the bill and described it as one which would help make a prompt, fair settlement of "fender-bender" type car accidents.

Bill Romine supported the bill, stating that it would discourage lawsuits and encourage fair settlements on the part of the insurance companies. He stated that the bill could be amended to cover attorney fees, reciprocally, and to either omit lines 4 and 5 on page 2, or clarify that they refer only to property damage.

Senator Towe spoke briefly in support of the bill.

Glen Darke, representing the American Insurance Association, spoke in opposition, stating that nuisance suits, which are insurance companies' most costly item, would be increased by passage of the bill. He also felt that it was unnecessary because of presently existing laws administered by the Insurance Commissioner covering unfair trade practices and comparative negligence.

Roger McGlenn, of the Independent Insurance Agents Association of Helena, also spoke in opposition to the bill.

DISPOSITION OF SENATE BILL 319:

Senator S. Brown moved that the bill be amended according to the attached Committee Report, and the amendment was unanimously approved. Senator S. Brown then moved that the bill DO PASS AS AMENDED, and his motion carried unanimously.

DISPOSITION OF SENATE BILL 316:

Senator S. Brown moved that the bill be amended according

to the attached Committee Report, and the amendments carried unanimously. He then moved that the bill DO PASS AS AMENDED, and the motion carried unanimously.

DISPOSITION OF SENATE BILL 286:

Senator Mazurek moved that the bill amended in its title, line 7; on page 2, line 15; and on page 13, as shown on the attached Committee Report. His amendments carried unanimously.

Senator S. Brown moved to amend the bill on page 4, line 18, as shown on the attached Committee Report, and the motion passed with only Senator O'Hara dissenting. Senator S. Brown then moved to amend the bill on page 3, line 22, and on page 3, lines 23 and 24, as shown on the attached Committee Report, and the amendments passed with Senators O'Hara and Anderson dissenting. Senator B. Brown then moved that the bill amended on page 4, lines 8 and 9, as shown on the attached Committee Report, and his motion carried unanimously. Senator Halligan moved that the bill DO PASS AS AMENDED, and his motion carried unanimously.

A handwritten signature in cursive script, reading "Mike Anderson". The signature is written in dark ink and is positioned above a horizontal line.

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/05/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

DATE

February 5, 1981

COMMITTEE ON

Judiciary

BILLS NO. SB 240

SB 319

SB 57

SB 316

SB 238

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Ed Reedy Jr.	mt. actor of life	SB 240	
Mike Fink	Supreme Court	SB 319	
ROGER McGLENN	IND. INS. AGENTS OF MT.	SB 240	
Tom Haggard	Am. Council Life Insurers	SB 240	
Lee Sells	Supreme Court	SB 319	
Byle Manley	OBPP		SB 319
Paul McGowan	Am. Council Life Insurers		
Danica Leers	OBPP		SB 319
Chic in P. R.	OBPP		
Mike Fink			
Thompson			
John Peterson			
John Peterson			
Edna Johnson	Guest File		
Kay Benson	Guest File		
Pat Molloy	Alliance of American Ins.	SB 240	
Raymond B. Brown	House of Representatives	SB 57	

(Please leave prepared statement with Secretary)

NAME: Wesleyne Brooks DATE: 2-5-87

ADDRESS: Mitchell Park - Dallas

PHONE: 1704-2776

REPRESENTING WHOM? Rev. Mr. L. J. 1724

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ ATTEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: WILLIAM L. BROWN DATE: 1-15-61

ADDRESS: 4810-A

PHONE: 9-2496

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: 10-28-71

DO YOU: SUPPORT? *✓* AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: M. F. A...

DATE: 2-5-81

ADDRESS: Room 237 Aitchell

PHONE: 449-2626

REPRESENTING WHOM? Suprem. Court

APPEARING ON WHICH PROPOSAL: 50 319

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: Lytle W. Manley DATE: 2-5-81

ADDRESS: Office of Budget State Capitol

PHONE: 449-3084

REPRESENTING WHOM? G B Y I

APPEARING ON WHICH PROPOSAL: 515 519

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

NAME: Gregg Loeppner DATE: 2/5/81

ADDRESS: ESD BLDG 412

PHONE: 449-3799

REPRESENTING WHOM? LABOR AND INDUSTRY

APPEARING ON WHICH PROPOSAL: SB-57

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: CLIFF CHRISTIAN DATE: 2-5-81

ADDRESS: 600 PARK AVE

PHONE: 443-4032

REPRESENTING WHOM? MT ASSN of REALTORS

APPEARING ON WHICH PROPOSAL: SB 57

DO YOU: SUPPORT? _____ AMEND? ✓ OPPOSE? _____

COMMENTS: _____

NAME: 1011 DTL.- DATE: 2-5-81

ADDRESS: Helena, MT

PHONE: 1-9-3056

REPRESENTING WHOM? *Minist. of Revenue*

APPEARING ON WHICH PROPOSAL: *513-316*

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: John T. H. N. T. H. N. DATE: 12-15, 1981

ADDRESS: Box 4243 - Helena

PHONE: 442-8999

REPRESENTING WHOM? Mont. Senior Citizens Assn

APPEARING ON WHICH PROPOSAL: SB 316

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS:

MBRA Board discussed this
issue - This bill satisfies
A consensus of their
sentiments
John T. H. N.

NAME: ED SHEEHY DATE: 2-5-81

ADDRESS: 1731 6TH AVE Helena

PHONE: 743-5782

REPRESENTING WHOM? RETIRED FEDERAL EMPLOYEES

APPEARING ON WHICH PROPOSAL: SB 316

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: OUR ORGANIZATION HAS DIRECTED
ME TO SUPPORT THIS

Ed Sheehy

NAME: William L. Romine DATE: 2-4-81

ADDRESS: P.O. Box 1691, Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Clerk & Recorder's Assn.

APPEARING ON WHICH PROPOSAL: S.B. 316

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: It is necessary that the Termination of Joint Tenancy form
be Recorded Rather than merely filed. Sometimes the county
assessor will not catch the termination form when filed, but would
note the transfer if it were recorded. In fact, in a few
counties, the clerk & recorder has been recording the forms
already. It is also much easier to trace a title if the form
has been recorded rather than filed. Finally, an instrument
which has been recorded is better protected from being
lost or misplaced, & even if it is somehow lost or destroyed
in the court house, the surviving joint tenant will have the
original.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: William L. Romine DATE: 2-5-81

ADDRESS: P.O. Box 1691, Cleona

PHONE: 742-0000

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: S.B. 238

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The purpose of this bill is not, as it might seem, to encourage
lawsuits. In fact, it is to discourage lawsuits. Under the present
system, the insurance company is in complete control where there is only
property damage. If the owner's car is damaged in the sum of \$1,500,
the insurance company can offer \$1,300, and it knows the owner won't
go to court. Even if he could find a lawyer to take the case for \$200,
he would still be out the \$200 when he went to fix the car. However,
if the insurance company knew that the owner's legal fees would also
be recoverable, it would be more realistic in its offers. It might
be wise to amend the Bill to provide that the Ref. will be awarded
his attorney fees if the P's Judgment is equal to or less than
the offer made by the Ref.

NAME: Roger McGLENN DATE: 2-5-81

ADDRESS: Box 4848 HELENA, MT.

PHONE: 442-9555

REPRESENTING WHOM? PLEASE SEE CARD. *Consumer/Governmental Affairs Information Council*

APPEARING ON WHICH PROPOSAL: SB-238 *Independent Insurance Agents Association of Montana*

DO YOU: SUPPORT? _____ AMEND? No Position OPPOSE? _____

COMMENTS: REMINDING THE COMMITTEE OF
THE CONSUMER PROTECTION DIVISION
OF THE STATE INSURANCE COMMISSIONER.
TO URGE THE USE OF THIS
DIVISION BEFORE GOING TO COURT.

FACT SHEET

SB 57 Introduced by Senator Bob Brown at the request of the Montana Human Rights Commission.

A bill for an act entitled: "AN ACT TO AMEND LAWS ON DISCRIMINATION IN HOUSING TO CONFORM TO FEDERAL REQUIREMENTS TO ENABLE THE STATE TO RECEIVE FEDERAL FUNDS BY THE DEFINITION OF EXPANDING UNFAIR HOUSING TO INCLUDE PRESALE TRANSACTIONS, REALTY TRANSACTIONS, AND ADVERTISING; AMENDING SECTION 49-2-305, MCA."

1. "The state may be neglecting potential sources of funding and technical assistance. Consideration should be given to establishing permanent agreements with those federal agencies which could provide Montana with financial and technical resources. (State of Montana, REPORT TO THE LEGISLATURE, Sunset Review, COMMISSION FOR HUMAN RIGHTS; Office of the Legislative Auditor, 1980, p. 44.)
2. Consolidation of federal and state authority at the state level.
3. Enforcement at the state level -- one investigation only. (No change in enforcement powers.)
4. Benefits to cities and towns. Points given in the awarding of Community Development Block Grants with local Human Rights Commission. (Grants awarded by Department of Housing and Urban Development.) Financial and technical benefit.
5. No new laws... Advertising already forbidden at federal level for discriminatory reasons. "Substantially equivalent."
6. Financial and technical benefit to state.
7. Technical assistance to cities, towns, realtors.

STANDING COMMITTEE REPORT

February 5 1931

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 319

Respectfully report as follows: That SENATE Bill No. 319

be amended as follows:

1. Line 19.

Following: "changes."

Insert: "However, nothing in this section prohibits the governor from submitting his recommendations for funding for the legislative and judicial branches of government."

And, as so amended,
DO PASS

STANDING COMMITTEE REPORT

February 5, 1961

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 236

Respectfully report as follows: That SENATE Bill No. 236
be amended as follows:

1. Title, line 7.
Strike: "RELEASED"
Insert: "RELEASE"
2. Page 2, line 15.
Following: "under"
Strike: "[section 3(1)]"
Insert: "46-23-311"
3. Page 3, line 22.
Following: "a"
Insert: "work program or a"
4. Page 3, lines 23 and 24.
Following: "program"
Strike: ", but not a work program"
5. Page 4, line 8.
Following: "implement"
Strike: "['"

DO-PASS

continued

February 5, 2021

6. Page 4, line 9.
Strike: "act]"
Insert: "part"

7. Page 4, line 18.
Following: line 17
Strike: "15"
Insert: "18"

8. Page 13, line 21.
Following: "46-23-406"
Strike: "through 46-23-410,"
Insert: ", "
Following: "46-23-413 through"
Insert: "46-23-415,"

And, as so amended,
DO PASS

Mike Anderson.....
Chairman.

STANDING COMMITTEE REPORT

February 5, 1902

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 316

Respectfully report as follows: That SENATE Bill No. 316
be amended as follows:

1. Title, line 7.

Following: line 6

Strike: "SECTION"

Insert: SECTIONS 72-16-503 AND

2. Page 3.

Following: line 17

Insert: "Section 2. Section 72-16-503 is amended to read: "72-16-503.

Additional filings required when real property involved and no
representative -- release of lien. (1) If an interest in real
property is involved under 72-16-502, the applicant shall file
record with the clerk and recorder of each county in which the real
property or any part thereof is located:

(a) -- a certified copy of the application referred to in
subsection (2) (b) of 72-16-502;

(b) -- the certificate from the department of revenue determining
inheritance tax, if any;

EX-PASS:

continued

February 5, 1981

~~{c}--the receipt from the county treasurer showing the inheritance tax has been paid~~ a document containing those matters required by 7-4-2613(3).

(2) The filing recording of the documents under subsection (1) constitutes release of any lien for inheritance taxes."

And, as so amended,
DO PASS

P.A.