

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 23, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, January 23, 1985 at 9:00 a.m. in Room 312-1 of the State Capitol Building.

ROLL CALL: All members of the committee were present with the exception of Rep. Gould who was previously excused.

CONSIDERATION OF HOUSE BILL NO. 200: Hearing commenced on HB 200. Steve Waldron, chief sponsor of the bill, testified in support of it. This bill amends the law as an automatic repealer. It deals with the over-crowding problem at the prison. He said that this repealer can be shortened quite a bit because the construction at the prison will be complete some time around December of this year or very early in 1986. The current law says that if or when the population at the prison exceeds its designed capacity of 545 by 215 inmates for a total of 760, or the women's prison at Warm Springs exceeds its designed capacity of 35 inmates, then the parole board may give early parole of 120 days to those individuals who would be paroled otherwise. It allows the parole board to review inmates for eligible parole and release them 120 days early. It is a very restrictive law as it now stands. It is permissive in that the parole board does not have to release the inmates early. They review each one on an individual basis. The inmate has to serve 12 months before he can be released for an early parole. The earliest parole would be 120 days.

The current law will terminate July 1st of this year. That is several months too soon. He continued on to state the problems that overcrowding in prisons can present. Rep. Waldron stated that he had some proposed amendments that would lower the time from July 1, 1987 down to when the facilities will be completed.

Curt Chisholm, deputy director for the Department of Institutions, spoke in favor of the bill. He submitted copies of the amendment that Rep. Waldron had referred to. (Exhibit A) This amendment allows this law to go into existence 30 days after the prison housing units are occupied by inmates. We are not changing the provisions of the authority -- we are simply asking for a little more time. He also stated that the parole board

has been extremely conservative in allowing inmates to leave prison under this early release provision.

Hank Burgess, chairman of the State Board of Pardons, offered testimony. He supports this legislation as a continuation of the statute that is in existence. The board has agreed to do whatever it can to keep the prison population down. The board knows the dangers that are present when prison population exceeds its limits. We see the bill as a temporary device. This past year, even though two inmates were released under this statute, it gears the experience with the regular parole system.

Cathy Campbell, representing the Montana Association of Churches, stated her support of the bill and submitted their position paper on corrections. (See Exhibit B)

There being no further proponents, Chairman Hannah requested testimony of any opponents, if any. There being no opponents, Rep. Waldron briefly closed.

Rep. Waldron again expressed his concern for the prison overcrowding. Chairman Hannah opened the floor up to questioning from the committee.

Rep. Keyser stated his support for the bill with the proposed amendments included. In response to a question asked by a member, Mr. Burgess stated that the prison is getting fewer and fewer first time offenders. Judges are reluctant to send first time offenders to prison due to overcrowding conditions.

Rep. Miles suggested that an amendment be included in the previous amendment offered by Rep. Waldron. The amendment would add the language after "Legislative Session are occupied," "but no later than July 1, 1987."

In response to a question from one of the committee members, Mr. Chisholm said that the prison construction is on schedule even though there have been a few delays. Rep. Waldron stated that it takes time to initiate building projects.

Rep. Poff asked Mr. Burgess how many members interview inmates on the parole board. Mr. Burgess said there are three.

Rep. Montayne requested some statistics on the crime projections. Mr. Chisholm stated he has no way of knowing

how long the present building capacity will accomodate this state. In response to that question, Rep. Waldron said that it is extremely difficult to project the number of prisoners there will be from one year to the next.

Rep. Brown stated that he supported the concept of this bill; however, he wanted to know how the word "occupy" is defined. Mr. Chisholm said it means when we are actually allowed to move inmates into those new facilities and start using them on a permanent basis. He feels the language should be left as "occupy." Rep. Brown stated that he is uncomfortable with that.

There being no further discussion, hearing closed on HB 200.

CONSIDERATION OF HOUSE BILL NO. 207: Hearing commenced on HB 207 with its chief sponsor, Ray Peck, testifying on its behalf. Rep. Peck feels this is a relatively simple bill. The bill would basically increase the maximum jurisdictional amount in civil cases in justices' courts to \$7,500. The last increase was made in 1981. At that time it was increased from a \$1,500 to a \$3,500 level. He pointed out to the seven subsections of the bill referring to the different activities within the court. The people who requested the bill to be drafted were primarily concerned with subsection (a). They are small financial institutions who feel that the \$3,500 is insufficient for their needs anymore when they go to justice court. He thinks it just a matter of getting expensive justice for legal proceedings that we are talking about here. He feels that if we don't do that, we will see a reduction in the availability of credit. He was concerned for young people who do not have well established credit ratings.

There were no further proponents of the bill.

Mr. Gordon Morris, representing the Montana Association of Counties, testified in opposition to this bill. He stated that they have significant problems with this particular bill. He thinks the increase of jurisdictional authority should not be viewed as any suggestion of the capabilities of magistrates from around the state. Our concerns are primarily in regard to the expansion of the caseload within the J.P. court system throughout the state and the subsequent decrease in caseloads within the district courts. The net effect of that transfer of jurisdictional authority is to reduce the expenditures of the district court levy within all the counties of Montana. The consequences

would be spelled out by way of an increase -- expenditure being required of county general funds which are already over-extended in too many cases, particularly in the J.P. portion of county general fund budgets. District Court filing fees are \$25.00 per case whereas J.P. Court filing fees is \$7.50 per case. As a result of the increased jurisdictional authority to J.P. courts, you will be losing significant non-tax revenue out of the district court fund by way of that \$25.00 filing fee.

Glen Drake, representing the American Insurance Association, testified in opposition to this bill. Mr. Drake stated that he has no problem with the purpose of the bill, but he stated he has a problem with increasing the jurisdictional limits under section d and c. He doesn't feel that J.P. courts are designed to handle the more complicated cases. He also stated that J.P. courts do not have the discovery procedures that district courts do. He also feels the number of appeals from J.P. courts to district courts will increase. There were no further opponents.

Rep. Peck gave a brief closing statement. Rep. Peck feels that Mr. Morris has his wires crossed regarding the fiscal note question. There is no state money involved here, that is why a fiscal note is required. Although the case-load in J.P. court may increase, he feels that the case-load in district court will decrease. Chairman Hannah opened the floor up for questioning at this time.

Rep. Addy is concerned about the fact that we are actually losing more money every time we have a case filed in district court from justice court. Mr. Morris didn't necessarily agree with Rep. Addy's assessment. Mr. Morris stated that you are losing \$7.50 in every case filed in justice court and you are losing \$25.00 in every case filed in district court.

Rep. Keyser questioned Rep. Peck if he had numbers of actual statewide cases which would have gone from justice court to district court within the last two years if the proposed bill were enacted. Rep. Peck said he thought it would be very difficult to produce that information. Rep. Keyser wanted to know if the J.P. association is in favor of this bill. Rep. Peck stated that he gets the impression that they are neutral on it.

Rep. Montayne expressed his opposition to the bill stating

that he believes the credit unions loan money on just about anything too freely. There being no further discussion, hearing closed on HB 207.

At this time, Chairman Hannah called an executive session to order.

ACTION ON HB 200: Rep. Brown moved that HB 200 DO PASS. The motion was seconded by Rep. Bergene. Rep. Keyser moved to adopt the proposed amendments submitted by the department. The motion was seconded by Rep. Hammond. The amendment would be reflected in the title of the bill also. It was Rep. Brown's opinion that the bill is all right the way it stands now. He didn't see the purpose of amending it in the first place. On that basis, Rep. Brown made a substitute motion to include the date of December 31, 1986. The motion was seconded by Rep. Hammond. Discussion followed before a vote was taken on Rep. Brown's substitute motion.

Rep. Brown stated that he has no problem with the way the bill is drafted to give them two years regardless of how long the construction takes. He feels that the population of that facility is going to be over the limit the day it is occupied. He feels they need the initial language of the bill without the proposed amendments.

Rep. Keyser stated his objection to Rep. Brown's substitute motion. He does not agree with Rep. Brown's figures. He said that we do not know what the projected increase of inmates will be. He went on to say that he is very comfortable in adopting the department's amendment and Rep. Miles' proposed amendment.

A roll call vote was taken on the substitute motion, and it failed 6 to 11.

The question was called on the original motion made by Rep. Keyser to adopt the department's proposed amendments and to further adopt the amendment suggested by Rep. Miles to include the language, "but in no event shall that date extend beyond July 1, 1987". The motion would also be reflected in the title of the bill. Motion carried unanimously.

Rep. Brown further moved that HB 200 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and carried unanimously.

ACTION ON HB 207: Rep. Krueger moved that HB 207 DO NOT PASS. The motion was seconded by Rep. Rapp-Svrcek.

Discussion followed. Rep. Krueger explained his motion by saying he felt justice courts have limited jurisdiction. He feels this bill is expanding the jurisdiction overall and doing so very significantly. He said possible abuses could result from the passage of this bill. He further believes that passage of this bill will increase levels of default, and it will create an undue hardship on defendants.

Rep. Addy stated his opposition to the motion and made a substitute motion to pass the bill with an additional amendment. (He later withdrew this motion.) Discussion followed on Rep. Addy's motion.

Rep. Keyser opposed the substitute motion and feels the bill should not pass. He said the committee should remember that the J.P. court is not a court of record. It was Rep. Mercer's opinion also that this bill should be killed.

The question was called, and the motion for a DO NOT PASS passed with Reps. Addy and Hammond dissenting.

Chairman Hannah informed the committee that he has assigned a subcommittee to review the water access bills and report their findings to the full committee. Appointed to serve on the subcommittee were: Reps. Keyser (who will act as chairman), Hammond, Krueger, and Mercer.

ADJOURN: A motion having been made and seconded, the meeting adjourned at 10:50 a.m.



REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-23-85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould			✓
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

STANDING COMMITTEE REPORT

January 23

1935

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 207

FIRST reading copy (WHITE)
color

INCREASING JUSTICES' COURTS CIVIL JURISDICTION FROM \$3,500 to
\$7,500

Respectfully report as follows: That HOUSE Bill No. 207

DO NOT PASS

~~DO NOT~~
DO PASS

STANDING COMMITTEE REPORT

January 23

19 85

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **200**

FIRST reading copy (**WHITE**)
color

EXTENDING EARLY PAROLE AUTHORITY TO RELIEVE PRISON OVERCROWDING

Respectfully report as follows: That **HOUSE** Bill No. **200**

be amended as follows:

1. Page 1, line 6.

Following: "UNTIL"

Insert: "30 DAYS AFTER COMPLETION OF THE MONTANA STATE PRISON
ADDITION OR"

Following: "July 1, 1987,"

Insert: "WHICHEVER IS EARLIER,"

2. Page 1, line 15.

Following: "terminate"

Strike: "on"

Insert: "30 days after the prison housing units funded in
HB 833 of the 48th legislature are occupied, but in
no event shall that date extend beyond"

AND AS AMENDED,

DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-23-85 H.B. BILL NO. 200 TIME 10:30

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily		✓
Budd Gould		
Edward Grady		✓
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown made a substitute motion to include
the date of December 21, 1986 in the bill. The motion was
seconded by Rep. Hammond and failed 6 to 11.

JUDICIARY

HOUSE

DATE 1/23/85

HOUSE BILL NO. 200 and 207

SPONSOR Rep. Waldron (200); Rep. Peck (207)

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Exhibit A
HB 200
1-23-85

Amendments to HB 200, Introduced Bill

F.1, Line 15 and 16

After the word "terminate"

Delete: "on July 1, 1987"

Insert: "30 days after the Prison housing units funded in HB 833 of the
48th Legislative Session are occupied," ~~no later than July 1, 1987~~

"6 - 2 1/2 IP. A
of 1, 1987"

6 - 2 1/2 or 1, 1987

Exhibit B
1-23-85 HB 200



CORRECTIONS

Montana
Religious Legislative Coalition [MRLC]
Committee of the
Montana Association of Churches
1981