

MINUTES OF THE MEETING  
JUDICIARY COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

February 21, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on February 21, 1987, in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Hannah and Brown who were absent.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 475: Rep. Lory moved to TABLE HB 475 at the request of the sponsor. A voice vote was taken and the motion CARRIED 8-5 with Rep. Strizich, Miles, Darko, Addy and Bulger dissenting.

ACTION ON HOUSE BILL NO. 478: Rep. Gould moved DO PASS. Rep. Cobb moved the amendments proposed by the subcommittee. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments attached).

Rep. Mercer questioned the two-thirds vote being taken out but wondered if it still grants immunity. Rep. Cobb stated that the word immunity was still in the bill. Mr. MacMaster pointed out that the two-thirds vote would still need to be in the bill to make the district immune because currently just the employees are immune under the tort claim act. Rep. Cobb moved to put the two-thirds vote back in and strike amendment number six. The motion CARRIED unanimously. (See Amendments attached). Rep. Cobb moved that HB 478 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 146 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 146: Rep. Cobb moved DO PASS. He moved the amendments proposed by the subcommittee. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments attached). Rep. Cobb moved DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 146 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 566: Rep. Mercer moved DO PASS. Rep. Miles suggested that the language be tied together as defined last session as domestic abuse. Rep. Mercer moved to amend by deleting the words, "threatened to physically abuse". Question was called and a voice vote was taken.

The motion CARRIED 10-3 with Reps. Daily, Miles and Rapp-Svrcek dissenting. Rep. Mercer moved to amend the title by adding, "chemical dependency or abuse by one of the parents to the relevant factors the court must consider" and inserting such language on page 2, line 4. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments attached). Rep. Mercer moved DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 566 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 761: Rep. Meyers moved DO PASS. Rep. Mercer stated that this bill will benefit the residents of Montana. Rep. Miles stated that she has problems with the bill in terms of the intent of bail. Rep. Rapp-Svrcek wondered if this bill mostly deals with indigents. Rep. Strizich explained that this bill simply reduces the amount of people in the jails and helps jail staff problems. We do not need to endorse the bail bond business because it is better to get the people home rather than having them sitting in jail. Question was called and a voice vote was taken. The motion CARRIED 13-2, with Reps. Gould and Cobb dissenting. HB 761 DO PASS.

ACTION ON HOUSE BILL NO. 460: Rep. Brown moved DO PASS and moved his amendments. He explained them and opened discussion. Rep. Meyers stated that he is concerned about the hidden taxes. Rep. Brown explained that it is not hidden and it is on only the people who are creating the problems or potentially creates the problem. Rep. Rapp-Svrcek pointed out that the Big Brothers and Sisters organization was satisfied with \$25.00. He stated that \$155.00 is too big a chunk to swallow, so, he suggested that we economize. Rep. Gould agreed with Rep. Brown and stated that when an organization like Big Brothers and Sisters is only getting 23% and is raising 77% on their own, we should give them the help they need. Rep. Mercer stated that the dissolution fee should be adjusted accordingly. Rep. Bulger suggested that the divorce fee be set at \$100.00. Rep. Brown stated the accounting would go like this: \$40.00 will go to the displaced homemakers, \$35.00 to the Big Brothers and Sisters, \$25.00 to the district courts, less \$5.00 for the present child trust fund. Coordination instructions should be included that ties this bill to Rep. Pistoria's increase, plus language that ties it to Title 39, Chapter 7, part 3, for the \$40.00 increase, plus a flat fee and the effective date of July 1, 1991. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments attached). Rep. Gould moved DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 460 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 212 AND 219: Rep. Cobb moved DO PASS and he moved his amendments. He stated that HB 212 has been incorporated into HB 219. Rep. Gould asked about where the horse shows have been placed and Rep. Cobb stated that they were put into SB 49. Mr. MacMaster explained that section 1 should contain the words "cowboy polo, cutting horse, o-moc-see, or jackpot roping event". Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments attached). Rep. Cobb moved HB 219, DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 219, DO PASS AS AMENDED. Rep. Darko moved that HB 212 be TABLED. A voice vote was taken and the motion CARRIED unanimously. HB 212, TABLED.

ACTION ON HOUSE BILL NO. 344: Rep. Bulger moved DO PASS. He stated there is some problem with the bill so the Medical Association of Montana has proposed a substitutive bill which he moved. Rep. Mercer asked if Mr. Neely agreed to the proposal 100% and Rep. Bulger stated that Mr. Neely wrote it. Rep. Mercer moved DO PASS AS AMENDED. Question was called on the substitutive bill. The motion CARRIED 11-2, with Rep. Brown dissenting and Rep. Gould abstaining.

HB 344 DO PASS AS AMENDED.

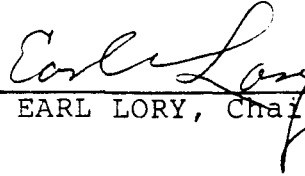
ACTION ON HOUSE BILL NO. 790: Rep. Brown moved DO PASS. Rep. Darko moved to amend on page 3, line 11, striking "250" and inserting "25". Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Brown moved DO PASS AS AMENDED. Rep. Daily stated that the bill needs limits. Rep. Brown pointed out that the bill reads "reasonable expenses" there is a two year sunset. Rep. Rapp-Svrcek moved to amend page 6, line 18, to strike "1989" and to insert "1991". Question was called and a voice vote was taken. The motion CARRIED 10-3, with Reps. Bulger, Daily and Eudaily dissenting. Rep. Mercer moved to amend section 8 by deleting it in its entirety. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments attached). Rep. Brown moved that HB 790 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED with Reps. Eudaily, Grady, Daily, Bulger, and Miles dissenting.

HB 790, DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 414: Rep. Cobb moved DO PASS. Rep. Bulger stated that the subcommittee felt that the bill did not have merit. Question was called and a voice vote was taken. The motion CARRIED 9-8. HB 414, DO PASS.

Judiciary Committee  
February 21, 1987  
Page 4

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 9:20 a.m.



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EARL LORY, Chairman

DAILY ROLL CALL  
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 21, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)		✓	
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)		✓	
EARL LORY (R)	✓		

# STANDING COMMITTEE REPORT

FEBRUARY 21

19 97

## JUDICIARY

Mr. Speaker: We, the committee on

HB 344

report

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

Chairman

1. Title, line 6.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "AND 27-2-401"

2. Title, line 7.

Strike: "IMMEDIATE EFFECTIVE"

Insert: "APPLICABILITY"

3. Pages 1 through 5.

Strike: page 1, line 11 through line 1 of page 5

Insert: "27-2-205. Actions for medical malpractice. (1)

Action in tort or contract for injury or death against a physician or surgeon, dentist, registered nurse, nursing home or hospital administrator, dispensing optician, optometrist, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, pharmacist, veterinarian, a licensed hospital or long-term care facility, or licensed medical professional corporation, as the employer of any such person, based upon such person's alleged professional negligence or for rendering professional services without consent or for an act, error, or omission in such person's practice, shall, except as provided in subsection (2), be commenced within 3 years after the date of injury or 3 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs last, but in no case may such action be commenced after 5 years from the date of injury. However, this time limitation shall be tolled for any period during which such person has failed to disclose any act, error, or

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omission upon which such action is based and which is known to him or through the use of reasonable diligence subsequent to said act, error, or omission would have been known to him.

(2) In an action on behalf of a minor who was under the age of four on the date of his injury or death, the period of limitations in subsection (1) begins to run when the minor reaches his eighth birthday or on death, whichever occurs earlier, and the time for commencement of the action is tolled during any period during which the minor does not reside with a parent or guardian.

NEW SECTION. Section 2. Applicability. This act applies to causes of action that arise after October 1, 1937.

# STANDING COMMITTEE REPORT

February 21, 19 37

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 414

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

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Chairman

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# STANDING COMMITTEE REPORT

February 21,

57

19

## JUDICIARY

Mr. Speaker: We, the committee on \_\_\_\_\_

**HOUSE BILL NO. 761**

report \_\_\_\_\_

**XX**

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

\_\_\_\_\_  
Chairman

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# STANDING COMMITTEE REPORT

February 21, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 478

do pass  be concurred in  as amended  
 do not pass  be not concurred in  statement of intent attached

Chairman

1. Title, lines 5 and 6.

Strike: "LIMITING" on line 5 through "DISTRICT" on line 6.  
Insert: "REQUIRING WEED DISTRICTS TO MAKE INFORMATION ON  
HERBICIDES AVAILABLE TO THE PUBLIC AND TO PERSONS USING  
HERBICIDES"

2. Title, line 6.

Strike: "AND"

3. Title, line 7.

Following: "NCA"

Insert: "; AND PROVIDING APPLICABILITY AND EFFECTIVE DATES"

4. Page 1, line 11.

Strike: "(1)"

Following: "district"

Insert: ", as defined in 7-22-2101,"

5. Page 1, lines 13 through 17.

Strike: "(2)" on line 13 through "(3)" on line 17

6. Page 1.

Following: line 18

Insert: "NEW SECTION. Section 2. Information on herbicide use.  
The district must provide information on protective  
clothing, health hazards, and proper application techniques  
to mixers, loaders, and applicators of herbicides and make  
the information available for review by the public at the  
district office."

Remember: subsequent sections 2 through 4 as 3 through 5

7. Page 2, line 3.

Strike: "Section 1 is"

Insert: "Sections 1 and 2 are"

8. Page 2, line 5.

Strike: "section 1"

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Insert: "sections 1 and 2"

9. Page 2.

Following: line 10

Insert: "NEW SECTION. Section 6. Effective date --  
applicability. This act is effective July 1, 1987, and  
applies to claims accruing after July 1, 1987."

ANB478a/3K/JH2

# STANDING COMMITTEE REPORT

February 21, - 19 97

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 145

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

Chairman

1. Title, lines 5 and 6.

Strike: "OFFICERS" on line 5 through "OTHER" on line 6

2. Title, lines 6 and 7.

Strike: "PRIVATE" on line 6 through "OPERATORS" on line 7

Insert: "DITCH COMPANIES"

3. Page 1, line 10.

Strike: "Civil"

Insert: "Individual"

4. Page 1, line 11.

Strike: "irrigation"

5. Page 1, lines 11 and 12.

Strike: "directors" on line 11 through "other" at beginning of line 12

Insert: "company"

6. Page 1, lines 12 through 14.

Strike: "Directors" on line 12 through end of line 14

Insert: "As used in this section:

(a) "ditch company" means a private, not-for-profit irrigation ditch or water user cooperative, corporation, association, or organization.

(b) "employee" means a director, officer, or employee of a ditch company.

(2) An employee of a ditch company is not individually"

Renumber: subsequent subsections

7. Page 1, line 16.

Strike: "their"

Insert: "his"

8. Page 1, line 17.

Strike: "(5)."

Insert: "(6). The immunity granted by this subsection does not apply to the liability of a not-for-profit cooperative, corporation, association, or organization."

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9. Page 1, lines 21, 23, and 24.  
Page 2, lines 2 (two places), 4, 7, 10, 16, 21, and 23.  
Page 3, lines 4, 15, 20, 22, and 25.  
Page 4, lines 3, 4, and 6.  
Strike: "employer"  
Insert: "ditch company"

10. Page 1, line 24.  
Page 2, lines 6 and 15.  
Page 3, lines 2 (two places), 19, and 22.  
Strike: "(5)"  
Insert: "(6)"

ANB146a/JM/JME

# STANDING COMMITTEE REPORT

February 21, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 566

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

Chairman

1. Title, line 8.

Following: "PARENTS;"

Insert: "ADDING CHEMICAL DEPENDENCY OR ABUSE BY ONE OF THE PARENTS TO THE RELEVANT FACTORS THE COURT MUST CONSIDER;"

2. Page 2, line 2.

Strike: "and"

3. Page 2, line 4.

Following: "child"

Insert: "; and

(7) chemical dependency, as defined in 53-24-103, or chemical abuse on the part of either parent"

4. Page 2, line 19.

Strike: "A"

Insert: "However, a"

5. Page 2, line 20.

Strike: "or threatened to physically abuse"

AHB566a/JN/JM2

# STANDING COMMITTEE REPORT

FEBRUARY 21,

87  
19

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 219

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

Chairman

1. Title, line 5.

Following: "ORGANIZATIONS"

Insert: "AND THEIR EMPLOYEES"

2. Title, line 6.

Following: "RODEO"

Insert: ", COWBOY POLO, CUTTING HORSE, O-MOC-SEE, AND JACKPOT  
ROPING"

3. Title, line 7.

Strike: "AN IMMEDIATE"

Insert: "APPLICABILITY AND"

4. Title, line 8.

Strike: "DATE"

Insert: "DATES"

5. Page 1, line 12.

Following: "organizations"

Insert: "and their employees"

6. Page 1, line 13.

Following: "rodeo"

Insert: "and similar"

7. Page 1, line 14.

Following: "rodeo"

Insert: ", cowboy polo, cutting horse, o-moc-see, or jackpot  
roping event, or employee of the organization."

8. Page 1, line 15.

Following: "in"

Strike: "a"

Insert: "the"

9. Page 1, line 16.

Strike: "rodeo"

Following: "willful"

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Strike: ", "  
Insert: "or"  
Following: "wanton"  
Strike: ", "

10. Page 1, line 17.  
Strike: "or reckless"

11. Page 1, line 20.  
Strike: "at a rodeo"  
Insert: "in an"

12. Page 1, line 23.  
Strike: "rodeo"

13. Page 2, lines 13 through 16.  
Strike: section 4 of the bill in its entirety

ReNUMBER: subsequent sections

14. Page 2, line 23.  
Strike: "date"  
Insert: "and applicability dates"

15. Page 2, line 24.  
Strike: "on passage and approval"  
Insert: "June 1, 1987, and applies to claims accruing after June 1, 1987"

AB219/JN/JHR



# STANDING COMMITTEE REPORT

3-31 19 87

Mr. Speaker: We, the committee on Judiciary,  
report HR# 790 4040

- do pass  
 do not pass
- be concurred in  
 be not concurred in
- as amended  
 statement of intent attached

\_\_\_\_\_  
Chairman

1. Title, line 8.  
Strike: ", AN IMMEDIATE EFFECTIVE DATE,"
2. Page 3, line 11.  
Strike: "250"  
Insert: "25"
3. Page 6, lines 15 and 16.  
Strike: section 2 in its entirety  
Re-number: subsequent section
4. Page 6, line 10.  
Strike: "1989"  
Insert: "1991"

AHB790a/JM/JM2