

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BOB CLARK**, on January 2, 1995, at
3:00 pm

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Loren L. Soft (R)

Members Excused: None

Members Absent: Rep. Curtiss, Rep. Kottel, Rep. Smith, Rep.
Tash, Rep. Trexler

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: None

CHAIRMAN BOB CLARK called the organizational meeting of the House
Judiciary Committee to order and asked that each member of the
committee identify themselves and give a short personal history.

CHAIRMAN CLARK asked John MacMaster to distribute handouts
regarding committee staffing duties. He emphasized the point
that staff members to not take sides on any issue. They will do
the best job on the committee in an unbiased manner regardless of
what the bill or the person presenting the bill is or has to do.

John MacMaster reviews a bill for constitutionality. He can tell whether that bill will withstand constitutional muster. **CHAIRMAN CLARK** advised the members to take **John's** word for it because he is very capable in that function. He advised the committee when any questions arise to talk to him about it and, he will respond. He is probably right and the committee was advised to not get mad at him about it, because he is doing his job and is not giving his personal opinions. **CHAIRMAN CLARK** said that the staff people are here to serve the committee and to ask them questions and for help if needed.

CHAIRMAN CLARK asked that people continue to use the seats they have chosen and not move around. He said that last year they began using minority vice chairs and he feels that is useful and is very successful. He said that the background that **REP. DIANA WYATT** has on this committee will make her a great asset. When **CHAIRMAN CLARK** is unable to be here, or if he is presenting a bill on this committee or another committee, one of the vice chairs will act as chairman and he will give each equal time as chair on this committee.

CHAIRMAN CLARK asked the members to use their microphones when at the table. All questions will go through the chair regardless of who is chairing the committee. This will keep order. He anticipates 200+ bills this year, though this is a lesser amount than usual, it still will be a large number. Sometimes the committee will hear five or six bills in a day and sometimes executive action will be taken on that same day. He stated that each day a folder will be where members sit. He directed them to put anything they want to keep inside that folder at the end of the meeting. All things left on the table will be considered disposable. He mentioned the coffee fund and asked the committee to contribute \$5 to the secretary for the purchase of the items for committee members' use.

CHAIRMAN CLARK said that there would be times when the committee will be voting on bills when some committee members would not be present. If there is going to be a vote and a committee member cannot be here, give someone written proxy vote. Cellular phones will be limited in the committee rooms. If someone comes with a cellular phone, ask them to turn it off or leave the room with it. If a member is going to be late or absent, let the Chair or a Vice Chair or the secretary know in advance if at all possible.

CHAIRMAN CLARK then discussed motions to table a bill. He said that this committee would allow testimony before it entertains a motion to table. The committee will hear what people have to say about that bill. If a committee member wants a bill tabled that is due for executive action, they are to exercise courtesy by allowing the people who are proponents to give their testimony before moving to table. It will be a nondebatable motion once that motion to table is made. Testimony on controversial bills or those with a large number of witnesses may be limited and witnesses may be asked to only give their name and whether they

favor or oppose the bill. Witnesses and sponsors are to be given respect when they are testifying. If there is a need to move around to stay awake, the members are to feel free to do that, but not in a way that will ignore or make a witness feel a lack of respect.

REP. WILLIAM BOHARSKI asked about proxy votes covering amendments that are not known at the time the proxy is given.

CHAIRMAN CLARK suggested that be covered as part of the proxy. Otherwise, their vote will not be recorded.

REP. DANIEL MC GEE asked if the proxy specifies the vote.

CHAIRMAN CLARK answered that it does.

REP. BOHARSKI asked if the written proxy stated that permission is given on all matters concerning the bill receiving action, would be sufficient; or should the proxy specifically mention specific amendments.

CHAIRMAN CLARK said that if the proxy gave direction to vote on a bill and/or on the amendments, that would be acceptable.

VICE CHAIR WYATT said that she felt that if the proxy stipulates "and all amendments pertaining to" the bill, then all those issues can be voted. If the proxy names the bill only, then the proxy is good only on voting up or down on the bill.

CHAIRMAN CLARK agreed and there was no further discussion.

CHAIRMAN CLARK introduced members of the audience and asked them to address the committee.

Russell Hill representing the Montana Trial Lawyers Association introduced himself.

Beth Baker from the Attorney General's Office and will be representing the Department of Justice along with John Conner, who is with the County Prosecutor Services Bureau.

Dave Brown of Brown and Company of Butte will have a few clients before this committee such as the Automobile Dealers Association. He has chaired this committee a few times.

CHAIRMAN CLARK acknowledged Dave Brown's abilities in chairing this committee in the past.

CHAIRMAN CLARK reviewed the handling the committee work. Upon opening the hearing on a bill, the sponsor will be recognized. The sponsors will identify themselves and will speak to the bill. They may want to reserve their testimony for later on, but they will be given first opportunity. Each witness will sign in at the back of the room by printing their names on the register.

Committee amendments can be made; but as a courtesy, discuss that amendment with the sponsor if at all possible. All witnesses will be treated with respect. Written testimony will be requested whenever possible and given it to the secretary. If additional equipment is needed for a presentation, inform the secretary the day before it is needed.

Subcommittees are not generally formed or utilized in this committee. Parliamentary rules will be followed for these committee meetings. He asked that the legislators read the rules in the *BILL DRAFTING MANUAL* that is provided.

Motions used in this committee will be **DO PASS, DO PASS AS AMENDED** or **DO NOT PASS, DO NOT PASS AS AMENDED, TABLED, POSTPONE ACTION** or **RECONSIDER ACTION**.

During Executive Action, when discussing the bill, everything goes through the Chair.

REP. SHIELL ANDERSON stated that when a bill is presented, the members are given an opportunity to ask questions of the proponents and opponents who stay about positions they have taken. But discussion among the committee members is saved for the Executive Session which very seldom is the same day as the Hearing. It is much more orderly if handled in that way.

REP. BILL TASH asked if it is permitted to have a witness who is in the audience during Executive Action questioned during Executive Session.

CHAIRMAN CLARK replied that normally the committee doesn't talk to any witness during Executive Session, but if there is a witness from an agency that would be affected, that witness can be questioned during Executive Session unless there is an objection. Even if one only person objects, then it will not be permitted.

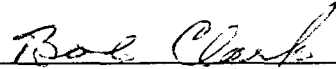
CHAIRMAN CLARK said that he would provide each committee member with a copy of the Rules of Procedure. **EXHIBIT 2**

REP. WYATT MOVED FOR ADJOURNMENT.

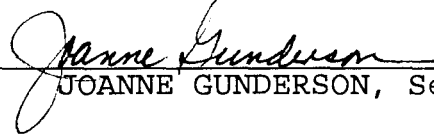
ADJOURNMENT

Adjournment: The meeting adjourned at 4:00 PM.

{Tape: 1; Side: A; Approx. Counter: ; Comments: This session was recorded on one side of one 90-minute tape..}



REP. BOB CLARK, Chair



JOANNE GUNDERSON, Secretary

BC/jg

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 1/2/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner ^{for}	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss		✓	
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel		✓	
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith		✓	
Rep. Loren Soft	✓		
Rep. Bill Tash		✓	
Rep. Cliff Trexler		✓	

January 2, 1995

TO: House Judiciary Committee

FROM: John MacMaster, Committee Staff Attorney

Outline of Scope of Committee Staffing Duties

I. Amendments:

- A. Review all amendments proposed by a committee member or by a person testifying on a bill, using the bill drafting guidelines that apply to the drafting of bills. Review amendments adopted by the committee.
- B. Prior to committee action on a bill, draft proposed amendments for committee members. If you are able to show me or discuss with me amendments that you want before you propose them in committee, it will save time, avoid many errors, and ensure that the amendments are done (hopefully) correctly. In addition, I will be able to put them in the proper language and format. How much time I will need to work on them will vary with the length and complexity of the amendments and my work schedule, which is extremely busy and heavy.
- C. Draft for committee members proposed amendments to a bill before the committee to be moved on Second Reading.

II. Statements of Intent: For a bill requiring a Statement of Intent, make sure that one is included in the bill. If the bill does not have one, obtain or draft one for amendment into the bill by the committee.

III. Committee bills: Upon an adopted motion by the committee, submit a bill drafting request for a committee bill and either draft the bill or assist another bill drafter who may have more expertise in the subject matter of the bill.

IV. Review proposed legislation: Prior to committee hearing on a bill, review the bill for constitutionality, internal consistency, conflict with or duplication of existing statutory provisions, and compliance with the other general bill drafting requirements applied to the drafting of bills.

V. Subcommittee meetings: When requested by the chair of the

committee or subcommittee, attend subcommittee meetings to perform the same functions as are performed for the committee.

- VI. Conference committee and free conference committee meetings: When requested, attend conference committee or free conference committee meetings on a bill that was before the committee to perform the same functions as are performed for the committee.
- VII. Research: To the extent time is available to do so, assist the committee and committee members in obtaining information regarding bills before the committee.
- VIII. Assisting the secretary: Work with and advise secretary in regard to committee minutes, bill amendments, committee meeting procedures, etc.

comwork

**MONTANA STATE LEGISLATURE
COMMITTEE CHAIR AND VICE CHAIR
PROCEDURES MANUAL**

**COMMITTEE RULES OF PROCEDURE
(SAMPLE)**

A. Public Hearings

- (1) Sponsor of the bill will open the presentation.
- (2) Proponents of the bill will present testimony.
Time subject to limitation of the chair.
- (3) Opponents of the bill will present testimony.
Time subject to limitation of the chair.
- (4) All questions will be put forth by the committee.
No questions will be directed between proponents and opponents. All questions will be directed through the chair, and everyone will be treated courteously.
- (5) All discussion will commence at the direction of the chair.
- (6) Sponsor of the bill will close the presentation.
- (7) Proponents and opponents will try to state new points of testimony only. If they wish to agree with points already made, they should simply so state.
- (8) Witnesses presenting testimony before the committee should remain in the room to answer any questions from committee members until the hearing is closed.
- (9) All witnesses shall sign the witness sheet before presenting testimony.
- (10) Written copies of the testimony should also be submitted if possible.
- (11) Suggested amendments to bills must be presented to the committee in writing.

**MONTANA STATE LEGISLATURE
COMMITTEE CHAIR AND VICE-CHAIR
PROCEDURES MANUAL**

B. Executive Session

- (1) Executive action may be taken the same day or later, but not until after all scheduled bills have been heard.**
- (2) Although executive sessions are open to the public, no comments may be made by anyone but committee members.**