

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on January 28, 1997, at
8:00 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)

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 215, POSTED 1/22/97
HB 200, HB 257, POSTED 1/20/97
Executive Action: HB 200 DO PASS AS AMENDED
HB 215 DO PASS AS AMENDED
HB 68 TABLED

HEARING ON HB 200

Opening Statement by Sponsor: REP. CHRIS AHNER
{Tape: 1; Side: a; Approx. Time Count: 1.8}

Proponents' Testimony:

BECKY MALENSEK EXHIBIT 1
{Tape: 1; Side: A; Approx. Time Count: 3.1}

KATHRYN LaROE EXHIBIT 2
{Tape: 1; Side: A; Approx. Time Count: 6.9}

ARLETTE RANDASH, Eagle Forum EXHIBIT 3
{Tape: 1; Side: A; Approx. Time Count: 9.5}

MIKE McGRATH, Lewis and Clark County Attorney
{Tape: 1; Side: A; Approx. Time Count: 11.0}

TIM SHANKS, Montana Police Protective Association
{Tape: 1; Side: A; Approx. Time Count: 13.5}

CANDACE TORGERSON, Montana Retail Association
{Tape: 1; Side: A; Approx. Time Count: 15.1}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 15.9 - 19.8}

Closing by Sponsor: REP. AHNER
{Tape: 1; Side: A; Approx. Time Count: 19.9}

HEARING ON HB 215

Opening Statement by Sponsor: REP. SCOTT ORR EXHIBITS 4 and 5
{Tape: 1; Side: A; Approx. Time Count: 21.1}

Proponents' Testimony:

KATHY McGOWAN, Montana Sheriffs and Peace Officers Association
{Tape: 1; Side: A; Approx. Time Count: 25.8}

RALPH DeCUNZO, Lewis and Clark Search and Rescue
{Tape: 1; Side: A; Approx. Time Count: 27.1}

CHUCK O'REILLY, Lewis and Clark County Sheriff
{Tape: 1; Side: A; Approx. Time Count: 28.7}

CLOYD GROVE, Montana Police Protective Association
{Tape: 1; Side: A; Approx. Time Count: 33.7}

MIKE BATISTA, Department of Justice
{Tape: 1; Side: A; Approx. Time Count: 35.5}

ROXANNE LaGRECA, Absaroka Search Dogs
{Tape: 1; Side: A; Approx. Time Count: 37.6}

REP. LIZ SMITH
{Tape: 1; Side: A; Approx. Time Count: 41.2}

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 43.3 - Tape 1; Side B; 4.6}

Closing by Sponsor: REP. ORR

{Tape: 1; Side: B; Approx. Time Count: 4.7}

HEARING ON HB 257

Opening Statement by Sponsor: REP. DEB KOTTEL

{Tape: 1; Side: B; Approx. Time Count: 7.1}

Proponents' Testimony:

GEORGE CORN, Montana County Attorneys Association

{Tape: 1; Side: B; Approx. Time Count: 14.6}

MIKE McGRATH, Montana County Attorneys Association

{Tape: 1; Side: B; Approx. Time Count: 20.8}

CHARLES BROOKS, Yellowstone County

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

EXHIBIT 6

BOB GILBERT, Montana Magistrates Association

{Tape: 1; Side: B; Approx. Time Count: 25.6}

GORDON MORRIS, MACO

{Tape: 1; Side: B; Approx. Time Count: 26.8}

JIM KEMBEL, City of Billings

{Tape: 1; Side: B; Approx. Time Count: 27.5}

MIKE MATHEW, Association of Counties and County Commissioners

{Tape: 1; Side: B; Approx. Time Count: 27.8}

Opponents' Testimony:

RUSSELL HILL, Montana Trial Lawyers Association

{Tape: 1; Side: B; Approx. Time Count: 29.3}

Questions From Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Count: 32.6 - end of tape}

Closing by Sponsor: REP. KOTTEL

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

EXECUTIVE ACTION ON HB 200

Motion: REP. AHNER moved HB 200 DO PASS.

{Tape: 2; Side: A; Approx. Time Count: 14.0; Comments: Beginning of this tape includes discussion about whether to act on HB 200.}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 14.1 - 24.5; Comments: REP. CLARK relinquished the Chair to REP. MCGEE.}

Motion: REP. MOLNAR moved to amend the language on page 1, line 10 of HB 200.

{Tape: 2; Side: A; Approx. Time Count: 24.6; Comments: REP. CLARK resumed the Chair.}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 24.8}

Motion: REP. MOLNAR moved a substitute amendment to the language on page 1, line 10 and page 1, line 11.

{Tape: 2; Side: A; Approx. Time Count: 25.4}

Motion/Vote: REP. MC GEE moved a division on the amendment. The motion carried by unanimous vote.

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 27.5 - 31.4}

Motion/Vote: REP. ELLINGSON moved a substitute for the wording on page 1, line 10. The motion carried by unanimous vote.

{Tape: 2; Side: A; Approx. Time Count: 31.5}

Motion/Vote: REP. GRIMES moved HB 200 DO PASS AS AMENDED. The motion carried 20 - 0.

{Tape: 2; Side: A; Approx. Time Count: 33.9}

EXECUTIVE ACTION ON HB 215

Motion: REP. DIANA WYATT moved HB 215 DO PASS.

{Tape: 2; Side: A; Approx. Time Count: 34.6}

Motion: REP. CURTISS moved amendments to HB 215 as introduced by the sponsor.

{Tape: 2; Side: A; Approx. Time Count: 35.0}

Discussion:

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

Motion/Vote: REP. KOTTEL moved a substitute amendment deleting amendments 3, 6, and 10 which were proposed by the sponsor. The motion carried by unanimous vote.

{Tape: 2; Side: A; Approx. Time Count: 36.7}

Motion: REP. ANDERSON moved HB 215 DO PASS AS AMENDED.

{Tape: 2; Side: A; Approx. Time Count: 39.9}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 40.3}

Motion/Vote: REP. KOTTEL moved to strike "mistreats" from line 14. The motion carried by unanimous vote.

Motion: REP. ANDERSON moved HB 215 DO PASS AS AMENDED.

Motion: REP. MC GEE moved to strike "law enforcement" and insert "criminal justice agency or search and rescue" on page 1 line 26.
{Tape: 2; Side: A; Approx. Time Count: 43.0}

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

Vote: The motion carried by unanimous vote.
{Tape: 2; Side: B; Approx. Time Count: 2.0}

Motion: REP. ANDERSON moved HB 215 DO PASS AS AMENDED.
{Tape: 2; Side: B; Approx. Time Count: 2.1}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 2.2 - 5.7}

Vote: The motion carried 18 - 2; REPS. SOFT and BOHARSKI voting no.

EXECUTIVE ACTION ON HB 68

Motion: REP. MC GEE moved HB 68 DO PASS. EXHIBITS 7 and 8
{Tape: 2; Side: B; Approx. Time Count: 6.4; Comments: Exhibits 7 and 8 were distributed just prior to Executive Action.}

Motion: REP. MC GEE moved amendments to HB 68.

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 8.2 - 16.5; Comments: REPS. MC GEE and WYATT alternately held the Chair position in absence of Chairman Clark throughout action on this bill.}

Vote: The motion carried by unanimous vote.
{Tape: 2; Side: B; Approx. Time Count: 16.6; Comments: REP. HURDLE voted aye by proxy as reported but copy of proxy was not given to secretary.}

Motion/Vote: REP. MC GEE moved to amend the title as necessary. The motion carried by unanimous vote.
{Tape: 2; Side: B; Approx. Time Count: 17.1}

Motion: REP. ANDERSON moved to amend HB 68 by removing the retroactive portion of the bill on page 2, lines 5 and 6.
{Tape: 2; Side: B; Approx. Time Count: 18.6 - 19.3; Comments: Chairman Clark resumed the chair.}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 19.4 - Tape 3, Side A; 0.6}

Vote: The vote carried 17 - 3, REPS. MC GEE, CLARK and GRIMES voting no.
{Tape: 3; Side: A; Approx. Time Count: 0.7}

Motion: REP. ANDERSON moved HB 68 DO PASS AS AMENDED.

Motion/Vote: REP. SANDS moved to amend HB 68 on line 18 on page 1 after (b) insert following the word "negligence" ", except damages resulting from medical malpractice,". The motion carried by unanimous vote.

Motion: REP. MC GEE moved HB 68 DO PASS AS AMENDED.

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 3.6 - 17.9}

Motion/Vote: REP. ANDERSON moved to Table HB 68. The motion carried 12 - 8, REPS. CLARK, MC GEE, SOFT, AHNER, BERGMAN, GRIMES, TASH, and HANSON voting no.

{Tape: 3; Side: A; Approx. Time Count: 19.0; Comments: REPS. ELLINGSON (aye) and GRIMES (no) voted by proxy.}

Motion/Vote: REP. SOFT moved to adjourn. The motion carried by unanimous vote.

ADJOURNMENT

Adjournment: The meeting was adjourned at 11:30 AM.

Bob Clark

REP. BOB CLARK, Chairman

Joanne Gunderson

JOANNE GUNDERSON, Secretary

BC/jg