

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
55th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON CORRECTIONS

**Call to Order:** By CHAIRMAN BERGSAGEL, on March 8, 1997, at 10:20 a.m., in Room 325.

ROLL CALL

**Members Present:**

Rep. Ernest Bergsagel, Chairman (R)  
Rep. William T. "Red" Menahan, Vice Chairman (D)  
Sen. B.F. "Chris" Christiaens (D)  
Rep. Royal C. Johnson (R)  
Rep. Betty Lou Kasten (R)  
Rep. Matt McCann (D)  
Rep. Daniel W. McGee (R)  
Rep. Steve Vick (R)  
Rep. Diana E. Wyatt (D)

**Members Excused:** Rep. Gary Feland (R)

Sen. Delwyn Gage (R)  
Sen. Charles "Chuck" Swysgood (R)

**Members Absent:** None

**Staff Present:** Susan Fox, Legislative Services Division  
Mike Wingard, Legislative Audit Division  
Skip Culver, Legislative Fiscal Division  
Meg Angell, Committee Secretary

**Committee Business Summary:**

Hearing(s) & Date(s) Posted:

Executive Action: HB 102; HB 125; HB 272; HB 279; HB 313; SB 109; SB 99; SB 256; SB 37; SB 2; SB 6; HB 544; HB 405.

EXECUTIVE ACTION

**EXHIBIT 1**

HB 102

**MOTION:** REP. McCANN MOVED HB 102 DO PASS.

{Tape: 1; Side: A; Approx. Time Count: 1.9.}

DISCUSSION

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MOTION/VOTE: REP. WYATT MOVED STRIKE LINES 1 & 2 ON PAGE 3, SECTION H. Motion carried 7-0 with REP. McGEE and SEN. CHRISTIAENS not voting.

{Tape: 1; Side: A; Approx. Time Count: 12.2.}

MOTION: REP. VICK MOVED INCLUDE LANGUAGE "SENTENCING MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM" in the sentencing practices section.

{Tape: 1; Side: A; Approx. Time Count: 12.7.}

DISCUSSION

VOTE: Motion carried 6-1 with REP. KASTEN voting no and REP. McGEE and SEN. CHRISTIAENS not voting.

{Tape: 1; Side: A; Approx. Time Count: 15.3.}

MOTION/VOTE: REP. VICK MOVED LANGUAGE BE CHANGED FROM "MUST" TO "SHOULD" line 26. (As it applies to incarceration in lieu of imposition of the death penalty.) Motion carried 7-0 with REP. McGEE and SEN. CHRISTIAENS not voting.

{Tape: 1; Side: A; Approx. Time Count: 18.8.}

MOTION/VOTE: REP. R. JOHNSON MOVED HB 102 DO PASS AS AMENDED. Motion carried 7-0 with REP. McGEE and SEN. CHRISTIAENS not voting.

HB 125

MOTION: REP. WYATT MOVED HB 125 DO PASS.

EXHIBIT 2

{Tape: 1; Side: A; Approx. Time Count: 19.9.}

DISCUSSION OF PROPOSED AMENDMENT FROM MISSOULA CORRECTIONAL SERVICES, INC (Sue Wilkins) - Clarification, Susan Fox.

DISCUSSION OF SEPARATION OF POWERS, CONTRACT REVIEW AND CONTRACT LENGTH.

MOTION: REP. McCANN MOVED AN AMENDMENT WHICH WOULD ALLOW FOR LEGISLATIVE REVIEW OF CONTRACTS OVER TEN YEARS WHICH WOULD BE HANDLED BY THE LEGISLATIVE AUDITOR'S OFFICE.

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

DISCUSSION

VOTE: Motion carried 4-3 with REP. WYATT, REP. MENAHAN and REP. KASTEN voting no and REP. McGEE and SEN. CHRISTIAENS not voting.

{Tape: 1; Side: B; Approx. Time Count: 9.0.}

MOTION: REP. McCANN MOVED TO STRIKE AMENDMENT #5, AND TO APPROVE AMENDMENTS 1,2,3,4 and 6 (Exhibit 2).

DISCUSSION

VOTE: Motion carried 8-0 with SEN. CHRISTIAENS not voting.

{Tape: 1; Side: B; Approx. Time Count: 13.3.}

FURTHER DISCUSSION OF AMENDMENT #5.

MOTION: REP. VICK MOVED TO CHANGE LANGUAGE TO "SUPERVISING AUTHORITY." Motion withdrawn  
{Tape: 1; Side: B; Approx. Time Count: 23.2.}

MOTION/VOTE: REP. McCANN MOVED HB 125 DO PASS AS AMENDED. Motion carried 8-1 with REP. WYATT voting no, SEN. SWYSGOOD voting yes by proxy and SEN. CHRISTIAENS not voting.

HB 136  
DISCUSSION OF AMENDMENTS

EXHIBIT 3

CHAIRMAN BERGSAGEL INDICATED HE WOULD PREFER NOT TO ACT ON THIS BILL UNTIL REP. JOHNSON HAS HAD A CHANCE TO REVIEW THE AMENDMENTS.

{Tape: 1; Side: B; Approx. Time Count: 36.4.}

HB 272  
MOTION: REP. McGEE MOVED HB 272 DO PASS.  
{Tape: 1; Side: B; Approx. Time Count: 37.8.}

DISCUSSION

MOTION: REP. VICK MOVED PAGE 4 LINE 2 BE AMENDED TO INDICATE THE CIRCUMSTANCES UNDER WHICH RESTITUTION AS PRIMARY SENTENCE SHOULD APPLY.

{Tape: 2; Side: A; Approx. Time Count: 8.0.}

DISCUSSION

VOTE: Motion carried 10-0.

MOTION/VOTE: REP. McGEE MOVED HB 272 DO PASS AS AMENDED. Motion failed 5-5 with REP. JOHNSON, REP. VICK, REP. KASTEN and SEN. CHRISTIAENS voting no and SEN. SWYSGOOD voting no by proxy.  
{Tape: 2; Side: A; Approx. Time Count: 10.2.}

HB 279  
MOTION: REP. JOHNSON MOVED HB 279 DO PASS.  
{Tape: 2; Side: A; Approx. Time Count: 11.4.}

DISCUSSION

VOTE: Motion failed 4-6 with REP. JOHNSON, REP. KASTEN, REP. McGEE, REP. McCANN, REP. VICK voting no and SEN. SWYSGOOD voting no by proxy.

{Tape: 2; Side: A; Approx. Time Count: 19.8.}

MOTION: REP. JOHNSON MOVED HB 279 BE TABLED. Motion carried 8-2 with REP. MENAHAN and SEN. CHRISTIAENS voting no.  
{Tape: 2; Side: A; Approx. Time Count: 20.4.}

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MOTION: REP. McGEE MOVED TO RECONSIDER ACTION ON HB 272 (prefer to table). Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 20.7.}

MOTION/VOTE: REP. McGEE MOVED HB 272 BE TABLED. Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 21.2; Comments:

HB 313

EXHIBIT 4

MOTION: REP. McGEE MOVED HB 313 DO PASS

{Tape: 2; Side: A; Approx. Time Count: 22.3.}

DISCUSSION

MOTION/VOTE: REP. McGEE MOVED KITZENBERG AMENDMENT 031301.ADL. Motion carried 9-0.

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

MOTION: REP. McGEE MOVED TO AMENDED HB 313 FURTHER TO HAVE COORDINATION LANGUAGE (WITH HB 102) INCLUDED PER EXPLANATION BY MR. PETESCH.

{Tape: 2; Side: A; Approx. Time Count: 25.5.}

DISCUSSION

VOTE: Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 38.6.}

MOTION: REP. McGEE MOVED HB 313 AS AMENDED, AS AMENDED.

{Tape: 2; Side: A; Approx. Time Count: 28.6.}

DISCUSSION

SUBSTITUTE MOTION/VOTE: SEN. CHRISTIAENS MOVED HB 313 BE TABLED. Motion failed 3-5 with REP. KASTEN, SEN. CHRISTIAENS and REP. WYATT voting yes and CHAIRMAN BERGSAGEL not voting.

{Tape: 2; Side: A; Approx. Time Count: 38.8.}

FURTHER DISCUSSION OF HB 313

{Tape: 2; Side: A; Approx. Time Count: 40.0; Comments: Discussion continued on Tape 2, Side B, beginning at tape count 3.3.}

MOTION/VOTE: REP. JOHNSON MOVED HB 313 BE TABLED. Motion carried 6-4 with REP. VICK, REP. McGEE, REP. McCANN and REP. MENAHAN voting no.

{Tape: 2; Side: B; Approx. Time Count: 9.6.}

BREAK 12:35 p.m.

RECONVENE 1:10 p.m.

SB 109

EXHIBIT 5

MOTION: REP. McCANN MOVED SB 109 BE CONCURRED IN.

{Tape: 2; Side: B; Approx. Time Count: 11.4.}

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MOTION/VOTE: REP. JOHNSON MOVED COORDINATING AMENDMENT WITH SB 2 AS EXPLAINED BY SUSAN FOX. Motion carried 9-0.  
{Tape: 2; Side: B; Approx. Time Count: 13.4.}

NOTE: AT THIS POINT IN THE MEETING NOISE FROM THE ROTUNDA BECAME AN ISSUE AND THE COMMITTEE MOVED TO ROOM 317.  
{Tape: 2; Side: B; Approx. Time Count: 18.8.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO STATE YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 21.3.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO DELINQUENT YOUTH/YOUTH IN NEED OF SUPERVISION, AND FOR PINE HILLS YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 25.6.}

DISCUSSION OF FISCAL NOTE FOR SB 109.

VOTE: (SB 109 be concurred in as amended). Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.  
{Tape: 2; Side: B; Approx. Time Count: 27.1.}

SB 99

MOTION/VOTE: REP. VICK MOVED TO REMOVE SB 99 FROM THE TABLE.  
Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 29.8.}

MOTION: REP. KASTEN MOVED SB 99 BE CONCURRED IN AS AMENDED.  
{Tape: 2; Side: B; Approx. Time Count: 29.9.}

DISCUSSION

VOTE: Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.  
{Tape: 2; Side: B; Approx. Time Count: 43.1.}

FURTHER DISCUSSION OF SB 99

{Tape: 2; Side: B; Approx. Time Count: 43.7; Comments: Discussion continued on Tape 3, Side A.}.

MOTION/VOTE: REP JOHNSON MOVED BILL BE DESIGNATED OTO. Motion carried 6-3 with REP. McGEE, REP. VICK and SEN. CHRISTIAENS voting no.

{Tape: 3; Side: A; Approx. Time Count: 1.2.}

SB 256

EXHIBIT 6

MOTION: REP. MENAHAN MOVED SB 256 BE CONCURRED IN.  
{Tape: 3; Side: A; Approx. Time Count: 2.2.}

MOTION: REP. WYATT MOVED AMENDMENTS

{Tape: 3; Side: A; Approx. Time Count: 2.3.}

## DISCUSSION

**VOTE:** Motion passed 9-0.

{Tape: 3; Side: A; Approx. Time Count: 4.7.}

**MOTION/VOTE:** REP. VICK MOVED SB 256 BE CONCURRED IN AS AMENDED.

Motion passed 10-0 with SEN. SWYSGOOD voting yes by proxy.

{Tape: 3; Side: A; Approx. Time Count: 7.1.}

TEMPORARY ADJOURNMENT AT 1:50 p.m. to allow Juvenile Justice Subcommittee to meet at 2:00 p.m.

**RECONVENE:** 4:20 p.m.

SB 37

## EXHIBIT 7

**MOTION:** REP. McGEE MOVED SB 37 BE CONCURRED IN.

{Tape: 4; Side: A; Approx. Time Count: 1.4.}

**SUBSTITUTE MOTION:** REP. KASTEN MOVED SB 37 BE NOT CONCURRED IN .

{Tape: 4; Side: A; Approx. Time Count: 3.5.}

## DISCUSSION

**VOTE:** Motion carried 7-2 with REP. McGEE voting no and REP. VICK voting no by proxy.

{Tape: 4; Side: A; Approx. Time Count: 8.4.}

**MOTION/VOTE:** REP. KASTEN MOVED SB 37 BE TABLED. Motion carried 10-0 with REP. VICK and SEN. SWYSGOOD voting yes by proxy.

{Tape: 4; Side: A; Approx. Time Count: 8.9.}

SB 2

## EXHIBIT 8

**MOTION:** REP. KASTEN MOVED SB 2 BE CONCURRED IN

{Tape: 4; Side: A; Approx. Time Count: 9.9.}

**MOTION:** REP. KASTEN MOVED AMENDMENTS 000201.AGP FOR DISCUSSION

{Tape: 4; Side: A; Approx. Time Count: 15.2.}

**MOTION/VOTE:** REP. KASTEN MOVED AMENDMENTS 00201.AGP. Motion carried 8-1 with REP. WYATT voting no.

{Tape: 4; Side: A; Approx. Time Count: 29.4.}

**MOTION:** REP. McGEE MOVED SB 2 BE CONCURRED IN AS AMENDED.

Motion carried 7-3 with REP. WYATT and SEN. CHRISTIAENS voting no and SEN. SWYSGOOD voting no by proxy. REP. VICK voted yes by proxy.

{Tape: 4; Side: A; Approx. Time Count: 30.7.}

SB 6

**MOTION:** SEN. CHRISTIAENS MOVED SB 6 BE CONCURRED IN

{Tape: 4; Side: A; Approx. Time Count: 31.7.}

## DISCUSSION

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VOTE: Motion carried 9-1 with SEN. SWYSGOOD voting no by proxy and REP. VICK voting yes by proxy.  
{Tape: 4; Side: A; Approx. Time Count: 37.5.}

HB 544

MOTION: REP. McGEE MOVED HB 544 DO PASS  
{Tape: 4; Side: A; Approx. Time Count: 38.2.}

MOTION: REP. McCANN MOVED LINES 3-9 PAGE 3, SUBSECTION 7.  
{Tape: 4; Side: A; Approx. Time Count: 39.2.}

VOTE: Motion carried 8-0.  
{Tape: 4; Side: A; Approx. Time Count: 41.8.}

DISCUSSION OF DEPARTMENT OF CORRECTIONS AMENDMENTS  
{Tape: 4; Side: A; Approx. Time Count: 42.2; Comments: Discussion continued on Tape 4, Side B.}

MOTION/VOTE: REP. McCANN MOVED HB 544 BE TABLED. Motion carried 5-4 with REP. McGEE, REP. WYATT, CHAIRMAN BERGSAGEL voting no and SEN. SWYSGOOD voting no by proxy. REP. VICK VOTED yes by proxy. REP. MENAHAN not voting.

{Tape: 4; Side: B; Approx. Time Count: 12.7.}

DISCUSSION OF MONDAY NIGHT'S TENTATIVE AGENDA.  
FURTHER DISCUSSION OF HB 544

HB 405

EXHIBIT 9

MOTION: REP. WYATT MOVED HB 405 DO PASS.  
{Tape: 4; Side: B; Approx. Time Count: 24.6.}

DISCUSSION/CLARIFICATION OF AMENDMENTS AND FISCAL NOTE ISSUES  
{Tape: 4; Side: B; Approx. Time Count: 25.3; Comments: Discussion continued on Tape 5, Side A.}

MOTION: SEN. CHRISTIAENS MOVED THE AMENDMENTS  
{Tape: 5; Side: A; Approx. Time Count: 3.8.}

VOTE: Motion carried 7-0.  
{Tape: 5; Side: A; Approx. Time Count: 4.0.}

MOTION: REP. McGEE MOVED PAGE 1, LINE 14 AFTER "ACCOUNTABLE" INSERT "PROVIDES FOR RESTITUTION TO VICTIMS." Motion carried 7-0.  
{Tape: 5; Side: A; Approx. Time Count: 4.3.}

MOTION: REP. McGEE MOVED LINES 26 CHANGE "MEMBER OF IMMEDIATE FAMILY" TO "SPONSOR".  
{Tape: 5; Side: A; Approx. Time Count: 10.4.}

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**VOTE:** Motion carried 7-0.

{Tape: 5; Side: A; Approx. Time Count: 10.5.}

**MOTION:** REP. McGEE MOVED PAGE 2 "TEAM MAY INCLUDE VICTIM."

{Tape: 5; Side: A; Approx. Time Count: 11.2.}

DISCUSSION

**VOTE:** Motion carried 7-0.

{Tape: 5; Side: A; Approx. Time Count: 12.5.}

**MOTION:** REP. McGEE MOVED PAGE 3, LINE 18 - DURATION OF SENTENCE,  
CHANGE TO "SENTENCE OR CONTRACT WHICHEVER IS LONGER."

{Tape: 5; Side: A; Approx. Time Count: 12.6.}

DISCUSSION

**VOTE:** Motion carried 6-1 with REP. KASTEN voting no.

FURTHER DISCUSSION

**MOTION/VOTE:** SEN. CHRISTIAENS MOVED HB 405 DO PASS AS AMENDED.  
Motion carried 7-2 with SEN. SWYSGOOD and REP. VICK voting no by  
proxy.

{Tape: 5; Side: A; Approx. Time Count: 19.8.}

HB 136

DISCUSSION OF CONCERNS

{Tape: 5; Side: A; Approx. Time Count: 20.8.}

**MOTION/VOTE:** SEN. CHRISTIAENS MOVED HB 136 FOR PURPOSES OF  
DISCUSSION. Motion carried 7-0.

{Tape: 5; Side: B; Approx. Time Count: 1.9.}

DISCUSSION

**MOTION:** REP. McGEE MOVED CHAIRMAN BERGSAGEL'S AMENDMENTS.

{Tape: 5; Side: B; Approx. Time Count: 4.7.}

FURTHER DISCUSSION

**MOTION ON AMENDMENTS WITHDRAWN**

{Tape: 5; Side: B; Approx. Time Count: 19.5.}

**MOTION ON BILL WITHDRAWN.**

{Tape: 5; Side: B; Approx. Time Count: 19.8.}

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ADJOURNMENT

Adjournment: 6:30 p.m.

  
REP. ERNEST BERGSAGEL, Chairman

  
MEG ANGELL, Secretary

eb/ma

Minutes taped on Sony BM 89-T.

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