

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN DAN McGEE, on April 14, 1997, at
8:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Daniel W. McGee, Chairman (Majority) (R)
Rep. Diana E. Wyatt, (D)
Rep. William E. Boharski (R)
Rep. Jon Ellingson (D)
Rep. Diane Sands (D)
Rep. Loren L. Soft (R)

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

Committee Business Summary:

Executive Action: SB 374

EXECUTIVE ACTION ON 374

Discussion:

EXHIBITS 1-1A

{Tape: 1; Side: A; Approx. Time Count: 0.1; Comments: John MacMaster distributed the exhibits which represented amendments made by the subcommittee up to the time of this meeting. This set of minutes is recorded on six 60-minute tapes.}

Motion: REP. BOHARSKI moved to accept section 79.

{Tape: 1; Side: A; Approx. Time Count: 1.8}

Discussion:

{Tape: 1; Side: A; Approx. Time Count: 1.9-16.7}

Vote: The motion carried 5 - 0; REP. ELLINGSON was absent.

{Tape: 1; Side: A; Approx. Time Count: 16.8}

Motion/Vote: REP. SANDS moved to accept section 80. The motion carried 5 - 0. *{Tape: 1; Side: A; Approx. Time Count: 17.1}*

Motion: REP. SANDS moved to accept section 81.

{Tape: 1; Side: A; Approx. Time Count: 17.7}

Discussion:

{Tape: 1; Side: A; Approx. Time Count: 18.2}

Vote: The motion carried 5 - 0.

Motion/Vote: REP. SANDS moved to accept section 82. The motion carried 5 - 0. {Tape: 1; Side: A; Approx. Time Count: 19.3}

Motion/Vote: REP. SANDS moved to accept section 83. The motion carried 5 - 0. {Tape: 1; Side: A; Approx. Time Count: 19.8}

Motion: REP. SANDS moved to accept section 84.
{Tape: 1; Side: A; Approx. Time Count: 20.0}

Discussion:

{Tape: 1; Side: A; Approx. Time Count: 20.2-27.8}

Vote: The motion carried 5 - 0.

{Tape: 1; Side: A; Approx. Time Count: 27.9}

Motion: REP. SANDS moved to accept section 85.
{Tape: 1; Side: A; Approx. Time Count: 28.1}

Discussion:

{Tape: 1; Side: A; Approx. Time Count: 28.3-Tape 1; Side B; 3.5}

Motion/Vote: REP. SANDS moved the amendment to section 82, item 3 of the exhibit. The motion carried 5 - 0. EXHIBIT 2
{Tape: 1; Side: B; Approx. Time Count: 3.7; Comments: Amendment was to Section 82; line 89, line 30. The Chairman said they would return to section 85.}

Motion/Vote: REP. SANDS moved section 82 as amended. The motion carried 5 - 0.

Discussion:

{Tape: 1; Side: B; Approx. Time Count: 4.7; Comments: This discussion related to section 85.}

Vote: The motion carried 5 - 0 to accept section 85.

{Tape: 1; Side: B; Approx. Time Count: 8.3}

Motion/Vote: REP. SANDS moved to accept section 86. The motion carried 5 - 0. {Tape: 1; Side: B; Approx. Time Count: 10.4}

Motion: REP. SANDS moved to accept section 87.
{Tape: 1; Side: B; Approx. Time Count: 11.8}

Discussion:

{Tape: 1; Side: B; Approx. Time Count: 11.9-23.8}

Vote: The motion carried 5 - 0.

{Tape: 1; Side: B; Approx. Time Count: 23.9}

Motion/Vote: REP. SANDS moved to accept section 88. The motion carried 5 - 0.

{Tape: 1; Side: B; Approx. Time Count: 24.3; Comments: REP. ELLINGSON arrived following this vote.}

Motion: REP. SANDS moved to accept section 89.

{Tape: 1; Side: B; Approx. Time Count: 25.4}

Discussion:

{Tape: 1; Side: B; Approx. Time Count: 26.1}

Vote: The motion carried 4 - 2; REPS. McGEE and BOHARSKI voting no. {Tape: 2; Side: A; Approx. Time Count: 0.1; Comments: Following this vote, REP. BOHARSKI left the meeting.}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 0.5}

Motion/Vote: REP. SANDS moved to accept section 90. The motion carried 5 - 0. {Tape: 2; Side: A; Approx. Time Count: 6.8}

Motion/Vote: REP. SANDS moved to accept section 91. The motion carried 5 - 0. {Tape: 2; Side: A; Approx. Time Count: 7.5}

Motion: REP. SANDS moved to accept section 92.

{Tape: 2; Side: A; Approx. Time Count: 8.1}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 8.2}

Vote: The motion carried 5 - 0.

{Tape: 2; Side: A; Approx. Time Count: 9.1}

Motion: REP. SANDS moved to accept section 93.

{Tape: 2; Side: A; Approx. Time Count: 9.4}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 9.5}

Vote: The motion carried 5 - 0.

{Tape: 2; Side: A; Approx. Time Count: 11.3}

Motion/Vote: REP. SANDS moved to accept section 94. The motion carried 5 - 0. {Tape: 2; Side: A; Approx. Time Count: 12.0}

Motion: REP. SANDS moved to accept section 95.

{Tape: 2; Side: A; Approx. Time Count: 12.3}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 12.5}

Vote: The motion carried 5 - 0.

{Tape: 2; Side: A; Approx. Time Count: 15.9}

Motion: REP. SANDS moved to accept section 96.
{Tape: 2; Side: A; Approx. Time Count: 16.2}

Discussion:
{Tape: 2; Side: A; Approx. Time Count: 17.0}

Motion/Vote: REP. MCGEE moved a conceptual amendment. The motion carried 5 - 0.
{Tape: 2; Side: A; Approx. Time Count: 18.9}

Motion/Vote: REP. SANDS moved to accept section 96 as amended. The motion carried 5 - 0.
{Tape: 2; Side: A; Approx. Time Count: 19.5}

Motion: REP. SANDS moved to accept section 97.
{Tape: 2; Side: A; Approx. Time Count: 19.7}

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

Vote: The motion carried 5 - 0.
{Tape: 2; Side: A; Approx. Time Count: 23.2}

Motion/Vote: REP. SANDS moved to accept section 98. The motion carried 5 - 0. {Tape: 2; Side: A; Approx. Time Count: 23.5}

Discussion:
{Tape: 2; Side: A; Approx. Time Count: 24.1-25.1; Comments: Sections 99 and 100 had already been amended out of the bill and renumbered sections 99 and 100 were considered.}

Motion/Vote: REP. SANDS moved to accept new sections 99 and 100. The motion carried 4 - 1; REP. WYATT voting no.
{Tape: 2; Side: A; Approx. Time Count: 25.4}

Discussion:
{Tape: 2; Side: A; Approx. Time Count: 25.8; Comments: Discussion of section 101.}

Motion: REP. SOFT moved to accept section 101.
{Tape: 2; Side: A; Approx. Time Count: 27.9; Comments: REP. BOHARSKI returned to the meeting.}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 0.1-5.5}

Vote: The motion failed by a tie vote 3 - 3; REPS. WYATT, BOHARSKI and MCGEE voting no.
{Tape: 2; Side: B; Approx. Time Count: 5.9}

Motion/Vote: REP. WYATT moved to reconsider section 101. The motion carried 4 - 2; REPS. BOHARSKI and MCGEE voting no.

Discussion:

{Tape: 2; Side: B; Approx. Time Count: 6.7; Comments: REP. SOFT discussed section 102 and a sunset provision.}

Motion: REP. SOFT moved to provide a conceptual sunset amendment to allow two years to study the impact of the bill.

{Tape: 2; Side: B; Approx. Time Count: 8.7}

Discussion:

{Tape: 2; Side: B; Approx. Time Count: 10.8-16.8; Comments: The amendment was discussed and rewording was advised.}

Motion: REP. SOFT moved a substitute amendment to sunset only the sections which referred to the new hire reporting and registry, financial institutions access and social security data on licensing.

{Tape: 2; Side: B; Approx. Time Count: 16.9}

Discussion:

{Tape: 2; Side: B; Approx. Time Count: 17.2; Comments: REP. SOFT withdrew his motion.}

Motion: REP. SANDS moved to accept section 102.

{Tape: 2; Side: B; Approx. Time Count: 22.0}

Discussion:

{Tape: 2; Side: B; Approx. Time Count: 26.5-Tape 3; Side A; 3.0}

Motion/Vote: REP. BOHARSKI moved a substitute motion to strike section 102. The motion carried 6 - 0.

{Tape: 3; Side: A; Approx. Time Count: 3.5}

Motion/Vote: REP. SANDS moved to accept section 103. The motion carried 6 - 0.

{Tape: 3; Side: A; Approx. Time Count: 4.1}

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 5.5; Comments: Discussion of fiscal note.}

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 8.3; Comments: Discussion of section 35.}

Motion/Vote: REP. BOHARSKI moved to reinsert statutory references 40-5-184 through 40-5-195 in sections 35 and 36 and to strike the remainder of the language from "or" on line 12 through registration on line 13. The motion carried 6 - 0.

{Tape: 3; Side: A; Approx. Time Count: 10.9}

Motion/Vote: REP. MCGEE moved the accept section 35 as amended. The motion carried 6 - 0.

{Tape: 3; Side: A; Approx. Time Count: 11.0}

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 11.3; Comments: Discussion of section 36.}

Motion/Vote: REP. BOHARSKI moved the amendment to section 36.

The motion carried 6 - 0.

{Tape: 3; Side: A; Approx. Time Count: 11.9; Comments: John MacMaster explained the amendment to this section.}

Motion/Vote: REP. SANDS moved section 36 be accepted as amended.

The motion carried 6 - 0.

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 13.1; Comments: Section 44 was discussed.}

Motion/Vote: REP. ELLINGSON moved a conceptual amendment to line 10 of section 44. The motion carried 6 - 0.

{Tape: 3; Side: A; Approx. Time Count: 22.5}

Motion/Vote: REP. SANDS moved section 44 as amended be accepted.

The motion carried 4 - 1; REP. BOHARSKI voting no. REP.

ELLINGSON was absent for the vote.

{Tape: 3; Side: A; Approx. Time Count: 25.5}

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 27.9-Tape 3: Side B; 27.3; Comments: Section 46 was discussed.}

Motion: REP. BOHARSKI moved to amend "may" to "shall" regarding a conceptual amendment whereby the obligee shall refund to an obligor any payment improperly made or overpayment.

{Tape: 3; Side: B; Approx. Time Count: 27.5}

Discussion:

{Tape: 4; Side: A; Approx. Time Count: 0.1-19.2; Comments: The wording of this amendment was extensively discussed, clarified and reiterated.}

Vote: The motion carried 4 - 2; REPS. WYATT and SANDS voting no.

{Tape: 4; Side: A; Approx. Time Count: 19.5; Comments: REP. WYATT voiced the reason for her objection to this amendment.}

Motion/Vote: REP. McGEE moved a conceptual amendment to say that if Child Support Enforcement Division was used in the original collection, they may be used in the subsequent reverse collection from the obligee to the obligor. The motion carried 4 - 2; REPS. SANDS and WYATT voting no.

{Tape: 4; Side: A; Approx. Time Count: 21.9}

Motion/Vote: REP. BOHARSKI moved section 46 be accepted as amended. The motion carried 4 - 2; REPS. SANDS and WYATT voting no. *{Tape: 4; Side: A; Approx. Time Count: 22.8}*

Motion: REP. SANDS moved to accept section 47.
{Tape: 4; Side: A; Approx. Time Count: 23.2}

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 23.5-Tape 4; Side B; 0.3}

Motion/Vote: REP. ELLINGSON moved a conceptual amendment to page 53, line 24. The motion carried 6 - 0.
{Tape: 4; Side: B; Approx. Time Count: 0.5-6.1; Comments: The wording of the amendment was discussed at length and a substitute amendment was offered.}

Motion: REP. WYATT moved section 47 as amended be accepted.
{Tape: 4; Side: B; Approx. Time Count: 6.4}

Discussion:
{Tape: 4; Side: B; Approx. Time Count: 6.6-23.4; Comments: Discussion of qualifications and limitations of hearings officers.}

Motion/Vote: REP. MCGEE moved amendments 1 and 2 of Exhibit 2. The motion carried 6 - 0.
{Tape: 4; Side: B; Approx. Time Count: 23.5}

Motion/Vote: REP. SANDS moved section 47 be accepted as amended. The motion carried 5 - 1; REP. BOHARSKI voting no.
{Tape: 4; Side: B; Approx. Time Count: 24.0}

Discussion:
{Tape: 4; Side: B; Approx. Time Count: 26.0; Comments: Section 56 was discussed; it was agreed that section 54 had already been adopted.}

Motion: REP. SANDS moved to accept section 56.
{Tape: 4; Side: B; Approx. Time Count: 27.8}

Discussion:
{Tape: 4; Side: B; Approx. Time Count: -Tape 5: Side A; 4.0}

Motion/Vote: REP. ELLINGSON moved to amend page 67, line 17 to insert "by personal service or by certified mail." The motion carried 6 - 0.
{Tape: 5; Side: A; Approx. Time Count: 4.5-5.6}

Motion/Vote: REP. SANDS moved section 56 be accepted as amended. The motion carried 6 - 0.
{Tape: 5; Side: A; Approx. Time Count: 5.7}

Discussion:
{Tape: 5; Side: A; Approx. Time Count: 6.4-Tape 5; Side B; 7.5; Comments: Discussion of sections 59-78. The meeting was recessed at 11:30 AM and reconvened at 3:50 PM.}

Motion: REP. SANDS moved to adopt the amendments presented by John MacMaster on exhibit 1 pages 69 - 86; sections 57 - 79.
{Tape: 5; Side: B; Approx. Time Count: 7.9}

Discussion:

{Tape: 5; Side: B; Approx. Time Count: 9.0-20.0; Comments: REP. SANDS withdrew the motion.}

Motion: REP. SANDS moved to accept all new amendments on exhibit 1. {Tape: 5; Side: B; Approx. Time Count: 20.5}

Discussion:

{Tape: 5; Side: B; Approx. Time Count: 21.2-23.0; Comments: Discussion regarding deleting amendments 58 - 61. Chairman McGee ruled to delete them by concept and revisit them later.}

Discussion:

{Tape: 5; Side: B; Approx. Time Count: 23.3-Tape 6; Side A; 9.5; Comments: Amendment 62 was discussed.}

Motion/Vote: REP. SOFT moved to retain amendment 62 as drafted. The motion carried unanimously.

{Tape: 6; Side: A; Approx. Time Count: 9.8}

Discussion:

{Tape: 6; Side: A; Approx. Time Count: 10.4-12.2; Comments: Amendment 64 was struck by consensus.}

Discussion:

{Tape: 6; Side: A; Approx. Time Count: 15.0; Comments: Amendment 68 was changed from handwritten amendment on Exhibit 1A.}

Discussion:

{Tape: 6; Side: A; Approx. Time Count: 16.5; Comments: The same language as above to be inserted in amendment 55. There was discussion to accept the amendment in exhibit 1 with the exception of 58.}

Motion/Vote: REP. SANDS moved to concur in all amendments in exhibit 1 except 58 - 61 and 64 and with modifications to 69 and 70. The motion carried 6 - 0.

{Tape: 6; Side: A; Approx. Time Count: 24.0}

Discussion:

{Tape: 6; Side: A; Approx. Time Count: 24.9; Comments: All outstanding sections not previously discussed were discussed.}

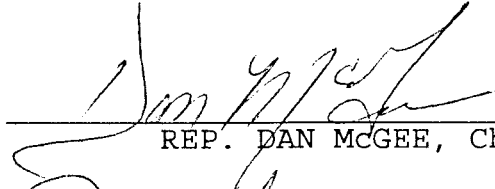
Motion/Vote: REP. SANDS moved to accept sections 59, 60, 61, 62, 64, 73, 74, 75, 76 and 78 as amended. The motion carried 5 - 1; REP. WYATT voting no.

Discussion:

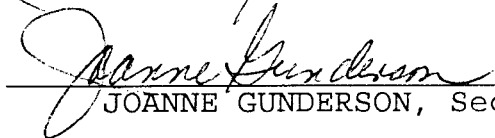
{Tape: 6; Side: A; Approx. Time Count: 26.0-29.0; Comments: Sections 42 and 52 were discussed and amended language proposed.}

ADJOURNMENT

Adjournment: The meeting was adjourned at 5:00 PM.



REP. DAN MCGEE, Chairman



JOANNE GUNDERSON, Secretary

DM/jg