

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DIANE RICE**, on February 8, 2005 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Roger Koopman (R)
Rep. Michael Lange (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: Rep. John Parker (D)
Rep. Bill Wilson (D)

Members Absent: None.

Staff Present: Pam Schindler, Committee Secretary
John MacMaster, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 238, 284, 287, 374, 526-Tabled;
HB 304, HJ 15, 97-Do Pass As
Amended

EXECUTIVE ACTION ON HJ 15

Motion: REP. GUTSCHE moved that HJ 15 DO PASS.

Motion: REP. GUTSCHE moved that HJ 15 BE AMENDED by "disparity or disproportionate."

Discussion:

REP. GUTSCHE and the rest of the committee discussed her amendment. At the conclusion of the discussion, REP. GUTSCHE withdrew the amendment she had proposed for HJ 15 without objection.

Motion/Vote: REP. CLARK moved that HJ 15 BE INDEFINITELY POSTPONED. Motion carried unanimously by voice vote
{Tape: 1; Side: A; Approx. Time Counter: 0 - 128}

EXECUTIVE ACTION ON HB 526

Motion: REP. STOKER moved that HB 526 DO PASS.

Motion/Vote: REP. NOENNIG moved that HB 526 BE AMENDED by striking "registry" on Page 6, Line 17. Motion carried 18-0 by voice vote. (REPS. PARKER, HARRIS, WILSON voted aye by proxy vote.)

Motion: REP. NOENNIG moved that HB 526 DO PASS AS AMENDED.

Discussion:

Motion/Vote: REP. NOENNIG moved that HB 526 BE AMENDED by Deleting Page 7, Line 13. Motion carried unanimously 18-0 by voice vote. (REPS. PARKER, HARRIS, WILSON voted aye by proxy vote.)

Discussion:

Mr. MacMaster explained the amendment to the committee members.

Motion/Vote: REP. NOONAN moved that HB 526 BE AMENDED by moving Page 6, Line 14 "...and a...." to Page 6, Line 16. Motion carried unanimously 18-0 by voice vote. (REPS. PARKER, HARRIS, WILSON voted aye by proxy vote.)

Motion/Vote: REP. NOENNIG moved that HB 526 BE AMENDED on Page 4, Line 10-Page 5, Line 4, "provide, withdraw." Motion carried 17-1 by voice vote with REP. GUTSCHE voting no. (REPS. PARKER, HARRIS, WILSON voted aye by proxy vote.)

Vote: Motion that HB 526 DO PASS AS AMENDED failed 7-11 by roll call vote with REP. KOOPMAN, REP. LANGE, REP. NOENNIG, REP. NOONAN, REP. RICE, REP. WARD, and REP. WINDHAM voting aye. (REPS. PARKER, HARRIS, WILSON voted no by proxy vote.)

Motion/Vote: REP. STOKER moved that HB 526 BE TABLED AND THE VOTE REVERSED. Motion carried by voice vote.

{Tape: 1; Side: A; Approx. Time Counter: 128 - 500}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 165}

EXECUTIVE ACTION ON HJ 15

Motion: REP. GUTSCHE moved that HJ 15 DO PASS.

Motion/Vote: REP. GUTSCHE moved that HJ 15 BE AMENDED on Page 2, Line 3. Motion carried 17-1 by voice vote with REP. WARD voting no. (REPS. PARKER, HARRIS, WILSON voted aye by proxy vote.)

Motion: REP. STOKER moved that HJ 15 DO PASS AS AMENDED.

(Please Note: REP. HARRIS present in room.)

Discussion:

The committee members discussed HJ 15 and what the study would be able to accomplish. REP. NOENNIG explained to the committee how the interim committees function.

Vote: Motion DO PASS AS AMENDED HJ 15 carried 13-5 by roll call vote with REP. EVERETT, REP. KOOPMAN, REP. MCGILLVRAY, REP. RICE, and REP. STOKER voting no. (REPS. PARKER, WILSON voted aye by proxy vote.)

{Tape: 1; Side: B; Approx. Time Counter: 165 - 500}

{Tape: 2; Side: A; Approx. Time Counter: 0 - 19}

EXECUTIVE ACTION ON HB 97

Motion: REP. LANGE moved that HB 97 DO PASS.

Motion: REP. LANGE moved HB 97 be AMENDED by AMENDMENT 97-02.
[EXHIBIT\(juh31a01\)](#)

Discussion:

Mr. MacMaster explained the amendment to the committee members.

Vote: Motion carried unanimously by voice vote. (REPS. PARKER, WILSON voted aye by proxy vote.)

Motion/Vote: REP. LANGE moved that HB 97 DO PASS AS AMENDED.
Motion carried unanimously by voice vote. (REPS. PARKER, WILSON voted aye by proxy vote.)
{Tape: 2; Side: A; Approx. Time Counter: 19 - 175}

REP. LANGE formally requested a new Fiscal Note for HB 97 before bringing HB 97 to the House floor.

EXECUTIVE ACTION ON HB 304

Motion: REP. RICE moved that HB 304 DO PASS.

Motion: REP. RICE moved that HB 304 BE AMENDED with a CONCEPTUAL AMENDMENT for Page 4, Lines 13-15, inserting "except for commercial drivers license."

Discussion:

Mr. MacMaster explained the amendment to the committee members.

Vote: Motion carried unanimously by voice vote. (REPS. PARKER, WILSON voted aye by proxy vote.)

Motion/Vote: REP. RICE moved that HB 304 BE AMENDED by a "Friendly" Amendment to strike "COMMONLY KNOWN AS ILLEGAL ALIEN."
Motion carried unanimously by voice vote. (REPS. PARKER, WILSON voted aye by proxy vote.)

Discussion:

Motion: REP. RICE moved that HB 304 DO PASS AS AMENDED.

Motion/Vote: REP. NOENNIG moved that HB 304 BE AMENDED with a CONCEPTUAL AMENDMENT to re-insert the stricken language. Motion carried unanimously by voice vote. (REPS. PARKER, WILSON voted aye by proxy vote.)

Vote: Motion that HB 304 DO PASS AS AMENDED carried unanimously by voice vote. (REPS. PARKER, WILSON voted aye by proxy vote.)
{Tape: 2; Side: A; Approx. Time Counter: 175 - 400}
{Tape: 2; Side: B; Approx. Time Counter: 0 - 11}

EXECUTIVE ACTION ON HB 284

(Please Note: REP. LANGE absent from the room)

Motion: REP. STOKER moved that HB 284 DO PASS.

Motion: REP. MCGILLVRAY moved that HB 284 BE AMENDED with AMENDMENT 284-01.
[EXHIBIT](#)(juh31a02)

Substitute Motion/Vote: REP. GUTSCHE made a substitute motion that HB 284 BE TABLED. Substitute motion carried 11-7 by roll call vote with REP. EVERETT, REP. KOOPMAN, REP. LANGE, REP. MCGILLVRAY, REP. RICE, REP. STOKER, and REP. WARD voting no. (REPS. PARKER, WILSON, voted aye by proxy vote, REP. LANGE voted no by proxy vote.)
{Tape: 2; Side: B; Approx. Time Counter: 11 - 91}

EXECUTIVE ACTION ON HB 287

Motion: REP. KOOPMAN moved that HB 287 DO PASS.

Substitute Motion/Vote: REP. HARRIS made a substitute motion that HB 287 BE TABLED. Substitute motion carried 11-7 by roll call vote with REP. CLARK, REP. EVERETT, REP. KOOPMAN, REP. LANGE, REP. RICE, REP. STOKER, and REP. WARD voting no. (REPS. PARKER, WILSON voted aye by proxy vote, REP. LANGE voted no by proxy vote.)
{Tape: 2; Side: B; Approx. Time Counter: 91 - 135}

EXECUTIVE ACTION ON HB 366

REP. KOOPMAN requested that HB 366 Executive Action be postponed until tomorrow.

EXECUTIVE ACTION ON HB 238

(Please Note: REP. HARRIS absent from room and REP. LANGE has returned to the room.)

Motion: REP. STOKER moved that HB 238 DO PASS.

Motion: REP. STOKER moved that HB 238 BE AMENDED by striking Section 1-15 with new Section to read: "information will be given to women regarding anesthesia to be given to the fetus, fetus may feel pain."

Discussion:

The committee members discussed this amendment. REP. GUTSCHE distributed information to the committee regarding the witness, Dr. Zelinsky who testified as a proponent of HB 238. He had stated that he was licensed in Illinois to practice medicine.

The exhibit from the Illinois Professional Licensing Bureau verified that Dr. Zelinsky's license had expired on 7/31/96. The Illinois Professional Licensing Bureau also verified that Dr. Zelinsky is not licensed to practice law in Illinois as he had previously stated.

The same bureau was unable to find any published research in any juried medical journals as Dr. Zelinsky had claimed he had written. That bureau did find an anti-choice pamphlet written by Dr. Zelinsky in 1984.

EXHIBIT(juh31a03)

Vote: Motion that HB 238 BE AMENDED carried 11-7 by roll call vote with REP. BECKER, REP. CLARK, REP. DRISCOLL, REP. GUTSCHE, REP. HARRIS, REP. PARKER, and REP. WILSON voting no. (REPS. PARKER, HARRIS, WILSON voted no by proxy vote.)

Motion: REP. STOKER moved that HB 238 DO PASS AS AMENDED.

Motion/Vote: REP. NOONAN moved that HB 238 BE AMENDED by changing "MUST" to "MAY" in the language. Motion failed 8-10 by roll call vote with REP. BECKER, REP. DRISCOLL, REP. EVERETT, REP. NOENNIG, REP. NOONAN, REP. RICE, REP. STOKER, and REP. WINDHAM voting aye. (REPS. PARKER, HARRIS, WILSON voted no by proxy vote.)

Vote: Motion that HB 238 DO PASS AS AMENDED failed 8-10 by roll call vote with REP. EVERETT, REP. KOOPMAN, REP. LANGE, REP. MCGILLVRAY, REP. RICE, REP. SONJU, REP. STOKER, and REP. WARD voting aye.

(REPS. PARKER, HARRIS, WILSON voted no by proxy vote.)

Motion/Vote: Motion that HB 238 BE TABLED AND THE VOTE REVERSED carried unanimously by voice vote.

{Tape: 2; Side: B; Approx. Time Counter: 135 - 500}

{Tape: 3; Side: A; Approx. Time Counter: 0 - 72}

(Please Note: REPS. PARKER, HARRIS present in the room.)

EXECUTIVE ACTION ON COMMITTEE BILL

Motion: REP. PARKER moved that House Judiciary's COMMITTEE BILL in Reference to HB 326 to BE ADOPTED.

Discussion:

The committee members discussed this Committee Bill with many variations made.

Vote: Motion that House Judiciary's COMMITTEE BILL to be ADOPTED carried by voice vote with REP. GUTSCHE voting no. (REPS. WILSON, LANGE voting aye by proxy vote.)

{Tape: 3; Side: A; Approx. Time Counter: 72 - 205}

(Please Note: REPS. CLARK, NOONAN, PARKER absent from the room.)

EXECUTIVE ACTION ON HB 374

Motion: REP. HARRIS moved that HB 374 DO PASS.

Discussion:

Mr. MacMaster explained the bill language as in reference to 45-5-622 of the MCA to the committee members.

Substitute Motion/Vote: REP. SONJU made a substitute motion that HB 374 BE TABLED. Substitute motion carried 10-8 by roll call vote with REP. BECKER, REP. CLARK, REP. DRISCOLL, REP. HARRIS, REP. NOENNIG, REP. NOONAN, REP. PARKER, and REP. WILSON voting no.

(REPS. CLARK, NOONAN, PARKER, WILSON voted no by proxy vote, REP. LANGE voted aye by proxy vote.)

{Tape: 3; Side: A; Approx. Time Counter: 205 - 500}

{Tape: 3; Side: B; Approx. Time Counter: 0 - 35}

ADJOURNMENT

Adjournment: 11:20 A.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh31aad0.PDF](#))