

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN MIKE WHEAT**, on January 14, 2005 at
9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jon Ellingson (D)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted:

Executive Action: SB 35, SB 166, SB 172 & SB 187

CHAIRMAN WHEAT announced the bills that were to be heard during the following week.

EXECUTIVE ACTION ON SB 35

Motion: SEN. MCGEE moved that SB 35 DO PASS.

Discussion:

SEN. MCGEE asked **Valencia Lane, Legislative Branch**, where in the bill the section that needed to be amended in **SEN. ESP's** bill that also needed to be amended in the Public Defenders bill. **Ms. Lane** responded that there was an amendment which had been prepared by Sheri Heffelfinger for SB 35 to coordinate it with HB 146 should both bills pass. The proposed coordination amendment was distributed to the Committee and is attached as Exhibit 1.

EXHIBIT(jus10a01)

Ms. Lane explained to the Committee that should HB 146 pass SB 35 would die. She then discussed what would happen if HB 146 were amended during its passage through the two bodies and the possibility that they would not want to terminate SB 35. She further explained that it was up to the Committee whether or not to add the coordination language to SB 35 now or wait and see what happens in the first half of the session and then craft a different coordination amendment at that time.

CHAIRMAN WHEAT asked **Ms. Lane** what her advice would be. **Ms. Lane** referred to the memorandum prepared by Sheri Heffelfinger, which was distributed to the Committee and is attached as Exhibit 2. She went on to say that Ms. Heffelfinger recommended that the amendment be put on the bill, therefore, she would also recommend that the amendment be added. She concluded by stating that the Committee needed to watch the progress of the bill.

EXHIBIT(jus10a02)

Motion/Vote: SEN. MCGEE moved that AMENDMENT NO. SB003501.ASH DO PASS. Motion carried unanimously by voice vote.

Motion/Vote: SEN. MCGEE moved that SB 35 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 10}

EXECUTIVE ACTION ON SB 149

SEN. LASLOVICH stated that this was the out sourcing bill which the Department of Administration and Board of Investments had a problem with. He then asked **Valencia** about potential amendments which had been e-mailed to her by Mr. Boyer. **Valencia** responded that she had not received such an e-mail.

CHAIRMAN WHEAT asked **SEN. LASLOVICH** if he was anticipating amendments. **SEN. LASLOVICH** indicated that the Department of Administration had some technical concerns and had sent the language to Dave Boyer as had the Board of Investments and that those amendments were not ready.

CHAIRMAN WHEAT informed the Committee that they would hold action on SB 149 until the amendments were ready.

{Tape: 1; Side: A; Approx. Time Counter: 10 - 12}

EXECUTIVE ACTION ON SB 166

Motion: **SEN. MANGAN** moved that SB 166 DO PASS.

Proposed amendments to SB 166 were distributed to the Committee and are attached as Exhibit 3.

EXHIBIT(jus10a03)

Valencia Lane, Legislative Branch, explained **SEN. BLACK'S** proposed amendments to the Committee. She stated that these amendments were the ones that were discussed in his testimony the previous day. **Ms. Lane** pointed out the section of the bill which would be affected by the amendment and explained how they fit into the bill.

Motion: **SEN. MANGAN** moved that AMENDMENT NO. SB016602.AVL DO PASS.

Discussion:

SEN. MCGEE asked **Ms. Lane** if the entities that use anhydrous ammonia in small quantities in the course of their business going to be insulated from the bill. **Ms. Lane** replied that the intent of the amendments was to protect those entities. She then pointed out with the amendment there was no longer any reference to the amount of anhydrous ammonia and the fact that you had to be possessing it with the intent to manufacture dangerous drugs.

CHAIRMAN WHEAT stated that the way he understood the amendment it made it clear that if the possession was for any lawful purpose the statute would not apply.

SEN. SHOCKLEY discussed language that indicated that if a person had two chemicals in his possession which were used in the manufacture of methamphetamine it made the intent clear. He went on to inquire if that was not sufficient.

CHAIRMAN WHEAT referred to Page 3 and indicated that was where the bill dealt with the combination of chemicals.

Ms. Lane informed the Committee that the amendments being discussed were those that had been prepared for **SEN. BLACK**. She went on to say that **SEN. CROMLEY'S** proposed amendments would do what was being discussed. She continued stating that the amendments currently under discussion did not.

Motion/Vote: **SEN. MANGAN** moved that **AMENDMENT NO. SB016602.AVL DO PASS**. Motion carried unanimously by voice vote.

Motion/Vote: **SEN. MANGAN** moved that **SB 166 DO PASS AS AMENDED**. Motion carried unanimously by voice vote.

SEN. MANGAN left the meeting.

EXECUTIVE ACTION ON SB 172

Motion/Vote: **SEN. CROMLEY** moved that **SB 172 DO PASS**. Motion carried unanimously by voice vote.

{Tape: 1; Side: A; Approx. Time Counter: 12 - 23.7}

EXECUTIVE ACTION ON SB 187

SEN. MANGAN returned to the meeting.

Motion/Vote: **SEN. SHOCKLEY** moved that **SB 187 DO PASS**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 181

CHAIRMAN WHEAT asked if there were any amendments to the bill. **Valencia Lane** responded that there were and indicated that they were being passed out to the Committee. The proposed amendment

is attached as Exhibit 4. **Ms. Lane** then informed the Committee that she had contacted **Ali Bovington** at the Attorney General's Office for comment, but had not heard back from anyone.

EXHIBIT(jus10a04)

CHAIRMAN WHEAT indicated that he had copies of some proposed amendments to SB 181 and asked **Ms. Lane** if she had seen them. **Ms. Lane** replied that she did recall some and believed that they had been handed out. **Ms. Lane** stated that she believed **Mr. Gilbert** had proposed the amendment and that he had wanted to take out references to the owner of the vehicle. She continued saying that **Mr. Gilbert's** amendment would have made any articles left in a vehicle subject to the lien.

SEN. MANGAN indicated that he had a concern regarding leased equipment and as such had offered to sit down with Mr. Gilbert's people to discuss all of the issues and asked if they could postpone Executive Action until another day.

SEN. CROMLEY asked **SEN. MANGAN** to take **SEN. ELLINGSON'S** amendment with him when he went to discuss his concerns with **Mr. Gilbert** and his people.

CHAIRMAN WHEAT asked **Valencia** to follow-up with **Ms. Bovington** at the AG's Office.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.6}

EXECUTIVE ACTION ON SJ 5

Motion: **SEN. MANGAN** moved that SJ 5 DO PASS.

Discussion:

SEN. CROMLEY stated that he would vote against the bill in its present form and explained his reason.

SEN. MANGAN withdrew his DO PASS motion.

{Tape: 1; Side: B; Approx. Time Counter: 4.6 - 7.5}

ADJOURNMENT

Adjournment: 9:35 A.M.

SEN. MIKE WHEAT, Chairman

MARI PREWETT, Secretary

MW/mp

Additional Exhibits:

EXHIBIT ([jus10aad0.PDF](#))