

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 25, 2001 at 8:00 A.M., in Room 172 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Rod Bitney, Vice Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Roy Brown (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Dennis Himmelberger (R)  
Rep. Carol C. Juneau (D)  
Rep. Jim Keane (D)  
Rep. Rick Laible (R)  
Rep. John Musgrove (D)  
Rep. William Price (R)  
Rep. Allen Rome (R)  
Rep. Donald Steinbeisser (R)  
Rep. Brett Tramelli (D)  
Rep. James Whitaker (R)

**Members Excused:** Rep. Kathleen Galvin-Halcro (D)  
Rep. Bob Lawson (R)

**Members Absent:** None.

**Staff Present:** Gordon Higgins, Legislative Branch  
Jane Nofsinger, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB339, HB95, HB349, 1/22/2001  
Executive Action: HB333, HB139

HEARING ON HB339

Sponsor: REP. ROGER SOMERVILLE, HD78, Kalispell

Proponents: Brian Fulford, Kalispell Police Association  
Pat Clinch, Montana Fire Fighters  
Tim Burt, Missoula Police Association  
Mark Muir, Missoula Police Association

Opponents: Gene Fenderson, Teamsters Union  
Chris Kukulski, Kalispell City Manager  
Clark Johnson, Bozeman City Manager  
Alec Hanson, Montana League of Cities and Towns  
Troy McGee, Helena Police Chief

Opening Statement by Sponsor:

REP. ROGER SOMERVILLE, HB78, Kalispell, said HB339 provides binding arbitration for law enforcement officers like the fire fighters have. He said the bill will solve the problem not only for Kalispell, but for the entire state. The bill says after all resources are exhausted an arbitrator can hear the parties' complaints and make the final decision. He said this process would prevent a strike and keep the focus on public safety. REP. SOMERVILLE presented written evidence. **EXHIBIT (buh20a01)**

Proponents' Testimony:

Mr. Fulford said binding arbitration would allow a neutral party to find middle ground without losing law enforcement protection. He presented written testimony. **EXHIBIT (buh20a02)**

Mr. Clinch said binding arbitration was a fair solution. He said he supported law enforcement officers in their effort to get this bill passed.

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Mr. Burt spoke in favor of HB339. He said a strike is not an option for police as they are responsible for protection of the community. This bill would keep police on the job, he said. He then offered written testimony. **EXHIBIT (buh20a03)**

Mr. Muir said this bill would help to maintain morale as well as quality of law enforcement.

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**Opponents' Testimony:**

**Mr. Fenderson** opposed the bill for a number of reasons. He said law enforcement personnel as well as fire fighters and health care workers pursue their jobs out of a sense of responsibility and not for monetary gain. He said they are not in a position to withhold their service from their community. He said employers can use their political clout to enforce their will. He told the committee there is no more important thing for workers to have than the right to withhold their labor.

**Mr. Kukulski** submitted written testimony. **EXHIBIT (buh20a04)** His written testimony consists of 9 points outlining Kalispell City Council's opposition to HB339.

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**Mr. Johnson** said good relations develop over many years and do not just happen once every two years with an arbitrator whose intent is finality, not necessarily good labor relations. He also pointed out that binding arbitration is a part of a negotiated contract and it is not fair to take this element from the contract.

**Mr. Hanson** opposed the bill because he said it is a local management issue and should not be imposed on local government by the state. He said there needs to be an understanding of the financial capabilities of each city and town. If law enforcement officers want arbitration, they should go to the locality and bargain for it he said.

**Mr. McGee** testified that most police chiefs opposed this bill although he said there were some in the state who saw merits in it. **EXHIBIT (buh20a05)**

**Informational Testimony:**

**John Andrew, State of Montana,** said he was available for questions.

**Questions from Committee Members and Responses:**

**REP. BOOKOUT-REINICKE** asked **REP. SOMERVILLE** how long negotiations go on. **Mr. Somerville** said in Kalispell they went on for over a year. **REP. BOOKOUT-REINICKE** asked **Mr. Kukulski** what the four days of the strike cost the city. **Mr. Kukulski** said the management team took shifts around the clock, and the county and the state helped them cover. However, he said even if there were no labor costs, there were court costs because the case was still in court.

**REP. PRICE** asked **Mr. Clinch** how the fire fighters got binding arbitration and how it works. **Mr. Clinch** said it was obtained after a bitter fight in Butte and that it is working well. He said negotiation has gone to binding arbitration four times, however, arbitration is not done lightly and is very expensive.

**Closing by Sponsor:**

**REP. SOMERVILLE** called this a serious issue which is geared to help citizens. He said the number one issue is safety. He told the committee it works for the fire fighters and urged the committee to pass the bill.

**HEARING ON HB95**

**Sponsor:** **REP. GARY MATTHEWS, HD4, Miles City**

**Proponents:** **Jack Kane, Bureau Chief, Weights and Measures**

**Opponents:** **Charles Brooks, Billings Area Chamber of Commerce**  
**Bill Steven, Montana Food Distributors Assn.**

**Opening Statement by Sponsor:**

**REP. GARY MATTHEWS, HD4, Miles City,** said this bill will revise the statute concerning the licensing of weighing and measuring devices. These devices number about 21,000 throughout Montana and include stock scales, truck scales, grain scales and grocery scales. The Bureau of Weights and Measures would like the fee structure to be moved to administrative rule rather than to be left in statute. This has already been done with gas pump inspection fees. The bureau projects it will be operating at a deficit under the current fee structure established in 1993 due to cost increases which have been mainly in fuel costs.

**Proponents' Testimony:**

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**Mr. Kane** said the bill asked for the fee-making authority to be moved to administrative rule. He said fee changes would be subject to oversight by interested parties and would require a public hearing. He told the committee the fees were commensurate with the cost of inspection. He projected the fee should increase from \$12.00 to \$14.15 for a typical grocery store scale inspection. He said the number of devices in operation had increased to 21,000 from 18,600 when the last fees were set. He

testified his bureau had a net loss of \$46,900 for FY2000. Moving the fee structure to administrative rule would allow the bureau to be run in a more timely and efficient manner, he said.

***{Tape : 2; Side : A; Approx. Time Counter : 6}***

**Opponents' Testimony:**

**Mr. Brooks** said he was in opposition for several reasons. He said any new tax should have the scrutiny of those people who were elected. If the bureau needed a fee increase it should bring the matter before the legislature. He told the committee the best place for taxes and fees was not in the rule-making authority but in the legislature. He said there is a better opportunity for public input at the legislative level.

**Mr. Stevens** said he agreed with Mr. Brooks that fees should not be placed with administrative rule.

**Questions from Committee Members and Responses:**

**REP. KEANE** asked **Mr. Brooks** if he would be opposed if the fees were set forth in the bill. **Mr. Brooks** said it would depend on the size of the fees and the specifics.

**REP. HIMMELBERGER** asked **Mr. Kane** what causes the cost increases. **Mr. Kane** replied primarily the increases were from higher fuel prices and travel expenses such as hotels and per diems. He noted his bureau had not increased in number of employees.

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**REP. JUNEAU** asked **Mr. Kane** if there was a fine when he found a bad scale. **Mr. Kane** said there was no fine, the device was merely taken out of service.

**REP. ROME** asked **Mr. Kane** if the fees were put in administrative rule would he raise merely prices when he did not have enough money in his fund. **Mr. Kane** said he could not really do that because the increase would have to be printed, proposed, discussed with interested parties, published, and sent to people on the bureau's mailing list. He said the bureau had a fund balance now which he estimated would be depleted in 4 years.

**Closing by Sponsor:**

**REP. MATTHEWS** asked the committee to consider the request and to pass the bill.

*{Tape : 2; Side : B; Approx. Time Counter : 0}*

**HEARING ON HB349**

**Sponsor:** REP. DICK HAINES, HD63, Missoula

**Proponents:** Jon Rudbach, University of Montana  
Ray Ford, University of Montana  
Jerry Bromenshenk, University of Montana  
Kay Unger, MEA/MFT  
Leroy Shram, Counsel, Board of Regents

**Opponents:** None

**Opening Statement by Sponsor:**

REP. DICK HAINES, HD63, Missoula, said HB349 would allow a business arrangement to take place between a university system and a corporation. He stated that 20 states allow this business arrangement by statute. Businesses profit when research becomes an economic reality, he said. He added that the universities profit at the same time. Montana is missing economic opportunities and will probably lose enterprising academic minds to other states if this bill is not passed. He called this bill another link to improving Montana's economy.

**Proponents' Testimony:**

**Mr. Rudbach** told how he had tried to license some technology to companies in Montana and the difficulties he encountered because of the way the law is now. He noted entrepreneurial professors are discouraged from entering business activities in Montana and encouraged to go elsewhere.

**Mr. Ford** said he had developed some software for land cover and satellite maps through a grant from Fish and Wildlife. He is unable to commercialize the program and release it for use nationwide and so now it sits on a shelf. He told of several other software programs which professors had wanted to spin off and were not able to exploit because of the restrictions on university research and commercialization.

**Mr. Bromenshenk** said the bill addresses equity not only for businesses but for faculty. He called the current legislation a

disincentive. He told of many grants which were available but required a partnership between a private business and a university, therefore Montana could not even qualify for such grants. He told of several patents he held which he could not use in Montana, and said he was being asked to move to Texas where he could utilize them. He added that as a third generation Montanan, he did not want to leave and take his intellectual properties with him.

**Ms. Unger** said she supported this bill as a member of the 15,000 MEA/MFT teachers union, a faculty member of University of Montana, and a research developer. This bill removes an impediment which does not exist in other states she said. Without the bill, Montana will not be able to attract the best researchers she added.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. LAIBLE** asked **Mr. Shram** what the Texas model was, and how the oversight of the value, transfer and sale would work. **Mr. Shram** said the Texas model was a template for the bill. He said the university would be a stakeholder in the corporate enterprise itself. Now the university gets its income in the form of a royalty or a license fee. After the bill, the university could be a stakeholder.

**REP. LAWSON** asked **Ms. Unger** if this bill could exacerbate agitation between teaching and research. **Ms. Unger** said "an academic is a strange bird who is motivated in part by economics, but it is not why you do it." She said the best teachers are those who are "fired up" by their field, and they maintain that by research and interest.

**REP. JUNEAU** asked **Mr. Shram** how students would be protected to share in the profits of the business venture. **Mr. Shram** said that now students are not considered state employees and are not limited in business arrangements. This bill would allow faculty to participate in the same way students can now. If a student was to become a researcher, he or she would need this bill to commercialize their research.

**REP. LAIBLE** asked **Mr. Shram** if the research and development was funded by the taxpayers, and how the money was recouped. **Mr. Shram** said the Regents' policy on patented inventions is that they assert ownership if an invention is developed with the use of state facilities. The income is split 50-50 after the initial costs are recouped by the state.

**Closing by Sponsor:**

**REP. HAINES** told the committee the idea of the bill is to get more private business involved with the university and to put more private dollars into research. He said it is hard to know when research will pay off, but there should be every incentive to conduct research. He asked the committee for their support of HB349.

**ADJOURNMENT**

Adjournment: 11:25 A.M.

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REP. JOE MCKENNEY, Chairman

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JANE NOFSINGER, Secretary

JM/JN

**EXHIBIT (buh20aad)**