

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN ALLAN WALTERS**, on February 12, 2001  
at 9:00 A.M., in Room 455 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Allan Walters, Chairman (R)  
Rep. Debby Barrett, Vice Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Norma Bixby (D)  
Rep. Dee Brown (R)  
Rep. Donald L. Hedges (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Jent (D)  
Rep. Michelle Lee (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Gay Ann Masolo (R)  
Rep. Douglas Mood (R)  
Rep. Holly Raser (D)  
Rep. Rick Ripley (R)  
Rep. Clarice Schrupf (R)  
Rep. Frank Smith (D)

**Members Excused:** Rep. Alan Olson (R)

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Ruthie Padilla, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 438, 2/7/2001  
Executive Action: None

HEARING ON HB 438

Sponsor: REPRESENTATIVE JEFF MANGAN, HD 45, GREAT FALLS

Proponents: Karl Olsen, Pride  
Kristine Marsh, Citizen  
John S. Lewis, Parents and Friends of Lesbians and  
Gays (PFLAG)  
Linda Gryczan, Montana Women's Lobbyist  
Dr. Starshine, PFLAG  
Toni Broadbent, Citizen  
Brenda Wahler, Citizen  
LaRisa Wahler, Citizen  
Sandra Hale, Citizen  
Colleen Murphy, National Association of Social  
Workers  
Frank Knowkowski, Citizen  
Margaret Hunter, Citizen, Business Owner  
Don Judge, Montana AFL-CIO  
Erin Butts, Citizen  
Al Smith, Montana Trial Lawyer  
Scott Crichton, American Civil Liberty Union  
Daniel Casey, Montana Human Rights Network  
Representative Norma Bixby, HD 5  
Marilyn Tutilulq, PFLAG  
John J. Rellitor, PFLAG  
Pamela Savage, Citizen  
Jennifer Perrin, Citizen  
Travis McAdam, Citizen  
John Lewis, PFLAG  
John J. Culliton, PFLAG

Opponents: Jenny Dodge, Citizen's Network  
Dallas Erickson, MT Citizens Decency through Law  
Harris Himes, Pastor  
Julie Millam, Christian Coalition  
Earl Hargis, Citizen  
Pastor Hollis Poe, Citizen  
Sharleen Suellau, Citizen  
Tom Suellau, Citizen  
Sandra Himes, Citizen  
Jeannie Poe, Citizen  
Shannon Bennett, MCWL

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 0.0}*

**REPRESENTATIVE JEFF MANGAN, HD 45, GREAT FALLS** stated the bill does one simple thing. It adds sexual orientation for current human rights laws. This bill is not about child molesters, sexual assault, sexual content on the internet, AIDS or the spread of AIDS, the change of religion or pedophilia and in no way alters those laws. He submitted an amendment excluding religious institutions. **EXHIBIT(sth35a01)**

**Proponents' Testimony:**

*{Tape : 1; Side : A; Approx. Time Counter : 7.9}*

**Karl Olsen, Pride** submitted written testimony. **EXHIBIT(sth35a02)**

**Kristine Marsh, Citizen** submitted written testimony.  
**EXHIBIT(sth35a03)**

**John S. Lewis, Parents and Friends of Lesbians and Gays (PFLAG)** stated their purpose is education, support and advocacy and that is why they are here today. He is here because he is a father of a gay son who is a college graduate with graduate degrees. His son does not currently live in Montana, but was born and raised in Montana. If this bill passes, it does not mean his son will return to Montana, but it will be a welcome sign when he crosses the line. He urged the committee to make a difference in Montana and pass the bill.

**Linda Gryczan, Montana Women's Lobbyist** submitted written testimony. **EXHIBIT(sth35a04)**

**Dr. Starshine, PFLAG** submitted written testimony.  
**EXHIBIT(sth35a05)**

**Toni Broadbent, Citizen** submitted written testimony.  
**EXHIBIT(sth35a06)**

**Brenda Wahler, parent of lesbian daughter** said as a parent and a mom she wants her child to have the same opportunities as any other kid in Montana. She feels the need now to change the attitudes of children from discrimination and start protecting the children of Montana.

**LaRisa Wahler, Citizen**, stated she recently left school and now attends an alternative program to get her diploma. At school she was harassed on an hourly bases. People would slam her into lockers, threaten her and yell at her in the parking lot. She is

scared she would not be able to find a job. All she is asking for is the chance to be equal not special. She would like to go to school and be treated like a human.

**Sandra Hale, Citizen** submitted written testimony.

**EXHIBIT (sth35a07)**

**Colleen Murphy, National Association of Social Workers** said she represents 400 social workers across the state and discussed the responsibilities of social workers. Their association will endeavor to reconcile those who manifest depraved and indifference to human life. They believe their interventions exhibit a vital role in the lives in America. She feels the need to improve their image by saying all are welcome here, all are supported here and all deserve equal protection and equal rights.

**Frank Knowkowski, Citizen** asked the committee to do the right thing for fairness, justice, kindness and compassion by supporting this bill. It would protect the homosexual brothers and sisters from discrimination, violence and cruelty of being sick and rejected by God. He then read a letter to a friend he had learned was gay.

**Margaret Hunter, Citizen, Business Owner** submitted written testimony. **EXHIBIT (sth35a08)**

**Don Judge, Montana AFL-CIO** said 49 years, 5 months and 2 days ago, America was drug into a war that was based upon economics and discrimination. That discrimination was against homosexuals, people of the Jewish faith, people who were disabled and against people who were trade unionists. His organization has, for a long time, held the belief that discrimination of any form is discrimination against everyone. He then discussed a generic article in the paper to the committee and said they can do something about this and urged their support.

**Erin Butts, Citizen** stated she is testifying because she feels as a human being they need the right to walk on campus and walk around the society and have the same rights as everyone else. It has become normal to punish who they are as individuals and asked the committee to please support the bill.

**Al Smith, Montana Trial Lawyer** said they support the bill because they support equal opportunity under the law and that is what is being stated in the bill. It states fellow Montanans should not be discriminated against on the basis of sexual orientation and should have the same rights as everybody.

**Scott Crichton, American Civil Liberty Union** stated the bill does not require religious institutions to do anything they feel is contrary to their religious tenets. It makes it clear religious institutes can discriminate whether it is right or wrong.

**Daniel Casey, Montana Human Rights Network** said they promote human rights and human rights awareness and are in support of the bill.

**Representative Norma Bixby, HD 5** submitted written testimony.  
**EXHIBIT (sth35a09)**

**Opponents' Testimony:**

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

**Jenny Dodge, Citizen's Network** submitted written testimony.  
**EXHIBIT (sth35a10)**

**Dallas Erickson, MT Citizens Decency through Law** submitted written testimony **EXHIBIT (sth35a11)** and information on definitions of sexual orientations. **EXHIBIT (sth35a12)**

**Harris Himes, Pastor** gave a brief sermon and script ions from the Bible on the religious beliefs pertaining to why the bill should not pass.

**Julie Millam, Christian Coalition** submitted written testimony **EXHIBIT (sth35a13)** and distributed testimony on behalf of **Jeanette Zentgraf. EXHIBIT (sth35a14)**

**Earl Hargis, Citizen** submitted written testimony.  
**EXHIBIT (sth35a15)**

**Pastor Hollis Poe, Citizen** stated there was a time 30 years ago when people would say they were "gay" and others would ask what they were so happy about, but today if you said you were gay, people would say you are a homosexual. He then discussed God's disbelief of homosexuality and stated some things are right and some things are wrong and to vote on what they believe is right. He submitted written testimony on behalf of Shannon Bennett.  
**EXHIBIT (sth35a16)**

**Questions from Committee Members and Responses:**

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

**REPRESENTATIVE HEDGES** asked if there is a way to amend the bill in a positive manner that protects people on the basis of merit and qualifications for a job, contract or housing without making a list of color, religion or age. **Harris Himes** replied he would hope this could be possible, but the reason the list is there is because this is not a perfect society.

**REPRESENTATIVE LEE** asked **Julie Millam**, if this law were to pass, what difference it would make in her life. **Julie Millam** replied as for the Christian Coalition of Montana, it would open a door to a lot of problems. There was a church who unknowingly hired a lesbian who interacted with the youth group which caused the parents to become very angry because it violates their religious beliefs.

**REPRESENTATIVE LEE** then asked **Sandra Hale** if this law were to pass, what difference it would make in her life. **Sandra Hale** stated she has heard testimony that she should end an 18-year relationship with her spouse and divorce her in-laws. They have children on both sides of the family who both call them aunt. To ask her to leave that life is preposterous.

**REPRESENTATIVE RASER** asked if the original constitution listed that it provided equal protection to all different race, religion and gender. **Al Smith** replied no, the equal protection clause is the 14<sup>th</sup> Amendment to the Constitution, which came along after the civil war. **REPRESENTATIVE RASER** then asked why it was necessary to amend the constitution to add specific groups of people to be protected. **Al Smith** said there was recognition after having gone through a civil war that our time honored traditions and moral purity of the past really wasn't pure. There was a need because there was a discrimination of the worst kind against particular people.

**REPRESENTATIVE RASER** asked if this bill infringes on any religious rights of what an individual believes or what their spouse's religious beliefs are. **REPRESENTATIVE MANGAN** replied he did not feel the original bill said or allowed that, however, the amendment makes it much more clear that is absolutely does not.

**REPRESENTATIVE DELL** asked for clarification on the decision of former Governor Racicot on the rights of gays and homosexuals in state government. **Karl Olsen** said it was his understanding that in 1998 former Governor Racicot asked his personnel directors to

include sexual orientation in the state's non-discrimination policy. It was something the former governor felt strongly about. It took two years but did go into effect in December 2000. At this point in time gays, lesbians and heterosexuals are protected from discrimination if they are state workers.

**REPRESENTATIVE DELL** asked for a legal definition of sexual orientation. **Al Smith** replied there is only one place in the code that sexual orientation is spelled out and that is in the insurance code, however, the amendment for this bill does define sexual orientation.

**REPRESENTATIVE MOOD** asked if there were any studies done on the life expectancy of the homosexual male compared to the heterosexual male. **Karl Olsen** replied the only studies he is aware of are studies done by **Paul Cameron, Researcher** who went through obituaries in cities where there are high incidents of AIDS in the 1980's to figure out the life expectancy.

**REPRESENTATIVE LEHMAN** stated in several of the proponents' and opponents' testimonies they referred to the incident of the student at Carroll College which took place a few weeks earlier. He does not know what the relationship of that incident has to do with this particular bill. **REPRESENTATIVE MANGAN** said he believes the vicious way the crime was carried out describes the bias of people. **REPRESENTATIVE LEHMAN** said his understanding of the bill is related to the prevention of discrimination regarding sexual orientation in terms of employment, accommodations, etc. **REPRESENTATIVE MANGAN** stated an individual who would violently harm someone because of their sexual orientation would not blink an eye at discriminating against them.

**REPRESENTATIVE BIXBY** asked if the bill requires the hiring of homosexuals. **Al Smith** replied the law would not require any employer, let alone churches or organizations, to have to hire someone who has a sexual orientation that is different. There is nothing in the bill that requires that.

**CHAIRMAN WALTERS** stated he was a scout leader for many years with his church, who had their own scouting program and then asked if this law passes could his church, strictly on the basis of sexual orientation, refuse to hire a homosexual to be a scout leader. **Harris Himes** said not on the basis of the wording in this statute. On the face of the current language they would be open to a lawsuit for refusing to hire or have a scout leader who was homosexual. He feels the bill is too broad and would be inviting constitutional problems.

**REPRESENTATIVE RASER** asked if this bill would open things they thought were covered under statute, for example pedophilia. **Al Smith** said he has experience with pedophilia, because for ten years he was a representative of individuals with mental disabilities, a number of whom were individuals with pedophilia. Pedophilia is not homosexual behavior and does not feel this bill would open them up to a lot of constitutional challenges.

**REPRESENTATIVE BIXBY** asked if this bill grants anyone special rights. **Al Smith** said in his opinion, this bill does not grant anyone special rights.

**REPRESENTATIVE MOOD** asked if the police were to apprehend the individuals involved with the incident at Carroll College, would they prosecute those individuals without this law. **Al Smith** stated yes, this law has nothing to do with criminal sanctions.

**Closing by Sponsor:**

***{Tape : 3; Side : B; Approx. Time Counter : 2.7}***

**REPRESENTATIVE MANGAN** said he feels the religion and boy scout issues have been discussed and addressed. Those are private associations not public and the Supreme Court has addressed those issues. There is a statute in Montana that states a marriage is between a man and a women and this bill will not change that. The only question that needs to be answered is should an individual be denied an opportunity simply because of his or her orientation?

**ADJOURNMENT**

Adjournment: 11:45 A.M.

---

REP. ALLAN WALTERS, Chairman

---

RUTHIE PADILLA, Secretary

AW/RP

**EXHIBIT (sth35aad)**