

MINUTES

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

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 23, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Joan Hurdle (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: **SJ2 - BCIAA - 18-0**
SB 386 - BCIAA - 15-4

SB 170 - BCIAA - 16-2

SB 111 - TABLE

SB 267 - TABLE

EXECUTIVE ACTION ON SJ2

Motion: REP. ADAMS moved that SJ2 BE CONCURRED IN. #1

Motion/Vote: REP. SHOCKLEY moved that SJ2 BE AMENDED. #2 Motion carried unanimously. EXHIBIT(juh66a01)

Discussion: Reps. Laszloffy.

Motion/Vote: REP. ADAMS moved that SJ2 BE CONCURRED IN AS AMENDED. #3 Motion carried unanimously 19-0

EXECUTIVE ACTION ON SB 386

Motion: REP. GUTSCHE moved that SB 386 BE CONCURRED IN. #4

Discussion: John MacMaster explained the procedure to address conflict in Bills, for instance this Bill and HB 146, and how his office resolves the conflict in the best possible way.

Discussion: Reps. Shockley, Gutsche, Noennig, Newman.

{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 30.1}

Rep. Mangan referred to the University of Great Falls study, EXHIBIT(juh66a02) Reps. Eggers, Shockley, Peterson, Wolery, Newman, Noennig, Mangan, Gutsche Curtiss, discussed the Hearings and merits of both Bills, SB 386 and HB 146 and their concerns.

Mike Ferriter, Division Administrator, Department of Corrections, without objection, said the difficult situation SB 386 puts the Department in is this Bill is a mirror of HB 65, which was passed last Session. There are some words that were changed and makes it mandatory now that the Department of Corrections do this pilot concept, however, some of the problematic areas is the fact that the Department, if the judicial district chooses to lead this concept if things aren't going well, will bail out and they lose some of their ability to control the budget.

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Discussion: Reps. Curtiss to Sandy Oitzinger, representing probation officers.

Rep. Mangan. Rep. Eggers quoted from EXHIBIT 2, "The research discovered that the districts were able to create 12 new programs funded with the credited surplus pilot program funds. Additionally 20 other new activities/programs were partially funded with the surplus pilot program funds. These additional preventive programs were created without a loss to the community of needed immediate treatment services" so he disagrees with Mr. Ferriter's hypothication that there is a problem and a dark cloud out there. He intends to support the Bill.

Motion/Vote: REP. LASZLOFFY moved that SB 386 BE TABLED. #5 Motion failed 5-14 with Reps. Shockley, Adams, Rice, Thomas and Wolery voting yes. Rep. Mangan abstained.

Discussion: Rep. Shockley to Mr. Ferriter, without objection, for further explanation.

Motion: REP. ADAMS moved SB 386 BE AMENDED, the coordinating amendments. EXHIBIT(juh66a03) #6

Discussion: Mr. MacMaster explained the amendments.

Motion/Vote: REP. SHOCKLEY moved that SB 386 BE AMENDED to segregate amendment "sections 13 through 22", the new coordinating language to deal with the two Bills. #7 Motion carried unanimously 18-0.

Discussion: Mr. MacMaster explained the remaining amendments. Reps. Clark, Gallus, Noennig.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 29.2}

Discussion: Rep. Noennig said if they pass them both, the purpose is to make this program work, in effect, and the other one not. That is the purpose of passing both Bills with all these coordinating instructions. Mr. MacMaster said yes, that is one of the purposes, but this Bill only essentially does one thing. It makes the pilot program permanent. The other Bill creates the other program for all the courts, and that will not become law. The program in this Bill will become law. The other Bill does some revisions to existing law that aren't related to that other program, which can become law, even though the other program doesn't become law.

Motion: REP. ADAMS withdrew his motion (#6) #8

Motion/Vote: REP. GUTSCHE moved that SB 386 BE CONCURRED IN AS AMENDED. #9 Motion carried 15-4 with Reps. Shockley, Adams, Holden and Rice voting no. Rep. Mangan abstained.

EXECUTIVE ACTION ON SB 170

Motion: REP. ADAMS moved that SB 170 BE CONCURRED IN. #10

Discussion: Reps. Holden, Clark, Gallus, Clancy, Gutsche, to Chuck Hunter, Department of Public Health, without objection, concerning the privacy issue that this in no way is in discord with federal law that protects students' privacy. Mr. Hunter said that is correct.

Motion: REP. LASZLOFFY moved that SB 170 BE AMENDED and withdrew #2. #11 EXHIBIT(juh66a04)

Vote: Laszloffy amendment carried 11-8 with Reps. Clark, Eggers, Gallus, Gutsche, Harris, Holden, Hurdle and Newman voting no.

Discussion: Reps. Gutsche, Noennig, Newman to Mr. Hunter and Ann Gilkey, Court Assessment Program for clarification.

Motion: REP. PETERSON moved that SB 170 BE AMENDED. #12 EXHIBIT(juh66a05)

Discussion: Reps. Peterson, Gallus, Noennig, Newman, Eggers to Mr. Hunter, without objection.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.1}

Discussion: Reps. Peterson, Shockley.

Vote: Peterson amendment motion #12 carried unanimously 19-0.

Discussion: Mr. MacMaster explained amendments EXHIBIT(juh66a06).

Motion/Vote: REP. NOENNIG moved coordinating amendments SB 170 EXHIBIT 6. #13. Motion carried unanimously 18-0.

Motion/Vote: REP. ADAMS moved that SB 170 BE CONCURRED IN AS AMENDED. Motion carried 16-2 with Reps. Laszloffy and Adams voting no. #14

EXECUTIVE ACTION ON SB 111

Motion: REP. ADAMS moved that SB 111 BE CONCURRED IN. #15

Motion: REP. PETERSON moved that SB 111 BE AMENDED. #16

Discussion: Reps. Peterson, Clark, deferred a question to former Representative, Jack Gunderson, without objection.

Further Discussion: Reps. Rice, Gutsche, Noennig, Peterson.

Vote: Peterson amendment (#16) carried 14-6 with Reps. Clark, Gallus, Gutsche, Hurdle, Mangan and Rice voting no.

Motion: REP. ADAMS moved that HB 111 BE CONCURRED IN AS AMENDED. #17

Motion: REP. GALLUS moved that SB 111 BE TABLED. #18

Discussion: Reps. Younkin, Peterson.

Vote: Motion to Table (#18) carried 15-5 with Reps. Noennig, Peterson, Thomas, Wolery and Younkin voting no.

EXECUTIVE ACTION ON SB 267

Motion: REP. ADAMS moved that SB 267 BE CONCURRED IN. #19

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.7}

Motion: REP. GALLUS moved that SB 267 BE AMENDED.

EXHIBIT (juh66a07) #20

Discussion: Reps. Gallus, Shockley, Harris, Peterson, Younkin.

Motion: REP. YOUNKIN moved a substitute motion that all records of expungement would have to be deleted from the amendment. #21.

Discussion: Reps. Gallus, Newman, Younkin, Mr. MacMaster.

Rep. Younkin withdrew her amendment #21

Rep. Gallus withdrew his amendment. #20

Motion: REP. YOUNKIN moved that SB 267 BE AMENDED on Page 1, line 17 before the word "conviction", insert the word "first" and on Page 3, line 28 "except first or second conviction". #22

Discussion: Mr. MacMaster, Reps. Noennig, Younkin, Shockley, Clark.

Motion: REP. CLARK moved that SB 267 BE TABLED. #23 Motion carried 14-5 with Reps. Shockley, Gallus, Harris, Rice and Wolery voting no.

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 17.7}

ADJOURNMENT

Adjournment: 10:50 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh66aad)