

MINUTES

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

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **SEN. MIKE COONEY**, on March 21, 2005 at 3:00 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Vicki Cocchiarella (D)
Sen. Mike Cooney (D)
Sen. Jon Ellingson (D)
Sen. Jeff Essmann (R)
Sen. Steven Gallus (D)
Sen. Rick Laible (R)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 244, 3/3/2005; HB 167, 3/3/2005;
HJ 19, 3/3/2005; HB 530, 3/3/2005;
SJ 14, 3/3/2005
Executive Action: None.

HEARING ON HB 244**Opening Statement by Sponsor:**

REP. CAROL LAMBERT (R), HD 39, opened the hearing on **HB 244**, Designate Terry as home of Evelyn Cameron.

REP. LAMBERT also informed the Committee that this bill will direct the Department of Transportation and the Department of Revenue to place Terry, Montana on the state map. She said this bill will create economic growth for Terry.

Proponents' Testimony:

Charlene Porsild, Research Director, Montana Historical Society, distributed written testimony. She informed the Committee that the Montana Historical Society provided over 2,000 photos at the cost to the Society of approximately \$20,000. The Society authored a \$23,000 Cultural and Aesthetic Grant proposal, and if this bill passes, the Society will be able to place these photos in an on-line exhibit focused on Prairie County where Cameron lived and worked. She urged the Committee to support HB 244.

EXHIBIT (sts62a01)

REP. GARY MATTHEWS, HD 40, MILES CITY, informed the Committee he lives only 45 miles from Terry, and the highway signs from Miles City to Terry will benefit that area of Montana. He urged support for HB 244.

Opponents' Testimony: None.

Informational Testimony:

Mike Bousliman, Montana Department of Transportation, informed the Committee that the highway signs are ready.

Questions from Committee Members and Responses:

CHAIRWOMAN SQUIRES asked **Mike Bousliman** how soon Terry can be placed on the map, and how soon can the highway signs be put in place. **Mr. Bousliman** replied that the map has already been updated, and they cannot put Terry on the map until the next update. The signs can be placed in a couple of months.

CHAIRWOMAN SQUIRES asked who will pay for this. **Mr. Bousliman** replied that the department will be paying for the signs.

Closing by Sponsor: **REP. LAMBERT** closed.

HEARING ON HB 167

{Tape: 1; Side: A; Approx. Time Counter: 4 - 6}

Opening Statement by Sponsor:

REP. GARY MACLAREN (R), HD 89, opened the hearing on **HB 167**, Revise frequency of delivery of business list to Department of Revenue.

REP. MACLAREN informed the Committee that this bill is a housekeeping bill.

Proponents' Testimony:

Elwood English, Chief Legal Counsel for the Secretary of State's Office, said that this bill requires the Secretary of State's office to provide a list of any new businesses to the Department of Revenue from once a year, to once a month.

Neil Peterson, Department of Revenue, stated that this bill not only improves existing practices, but will receive the information from the Secretary of State's Office sooner. He said that more businesses are forming, but only last a few months. He urged the Committee to support HB 167.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. COONEY asked **Elwood English** how the information is transferred. **Mr. English** replied, electronically.

Closing by Sponsor: Closed.

HEARING ON HJ 19

{Tape: 1; Side: A; Approx. Time Counter: 13 - 23}

Opening Statement by Sponsor:

REP. GARY MATTHEWS (D), HD 40, opened the hearing on **HJ 19**, Urge use of wood bats in American Legion baseball.

He informed the Committee the Brandon Patch tragedy has changed the way baseball will be played. He discussed Minnesota and Florida who have adopted this law, and California and Texas is looking to adopt this law. He said this is a resolution for the use of wood bats. He said the baseball bat industry has gone from a \$70 million industry to \$300 to \$400 million dollar industry. He discussed a bat company that sued the National Collegiate Athletic Association (NCAA), in 1998, for \$267 million. He referred to the Easton Sports v. NCAA lawsuit. Easton Sports, Inc., one of the industry's leading aluminum bat manufacturers, filed a restraint-of-trade lawsuit against the NCAA and is seeking \$267 million in damages and injunctive relief. The suit was filed in the United States District Court in Kansas City, Kansas.

The adoption of revised aluminum-bat regulations brought lawsuits from aluminum and wooden bat manufacturers who sued under the premise that the NCAA had conspired to lock the other out of the bat market (Hawes, 2000). The Baum Company, a manufacturer of wood composite baseball bats, claimed the NCAA aluminum standards were lax and that in addition to being unsafe, aluminum bats were also preventing the Baum Company from selling wooden bats to NCAA schools (Kan, 1999). The Baum Company also accused the NCAA of conspiring with aluminum bat manufacturers in order to eliminate competition from wooden bat makers. In this case, the court ruled that the NCAA's refusal to change rules further or to ban aluminum bats is lawful (Kan, 1999). As a result of the Baum Company ruling, Hillerich and Bradsby and Easton Sports, Inc., the industry's leading manufacturers of both aluminum and wooden bats, dropped their restraint-of-trade lawsuits against the NCAA. The ruling against the Baum Company the court illustrated how the NCAA had the lawful right of refusal and the lawful right to adopt bat standards for the protection of players (Kan, 2000). Therefore, the NCAA has the right to modify its aluminum-bat requirements or make the switch to wooden bats.

REP. MATTHEWS talked about the disadvantage between a wood bat and a metal bat, how a batted ball feeds off a metal bat five to ten percent faster than a wood bat. He talked about professional baseball players, Sousa and McGuire, and how using metal bats increased the speed, and changed the game of baseball.

Proponents' Testimony:

Mike Money, Bozeman, informed the Committee that he is Brandon Patch's uncle. He read testimony from a previous hearing held in the House Business and Labor Committee. (see Exhibit 2) He strongly urged the Committee to pass this bill to send a message to the American Legion, and the bat companies to provide safety to our young people.

EXHIBIT (sts62a02)

{Tape: 1; Side: B}

Jack Carlson, Helena, said he is also an uncle of Brad Patch. He discussed the hearing in the House Committee, and a lot of questions were asked that the American Legion couldn't answer. He discussed Coach Bill Thurston, who coached baseball for 40 years quit because the Rules Committee in Congress, would not solve the bat issue. **Mr. Carlson** said the time is now to accept this resolution before another injury or death happens. He urged the Committee to support HJ 19.

Jamie Carlson, Helena, said she is Brandon Patch's aunt. She discussed a poll that took place to ban metal bats for organized youth baseball. She said the response was huge, and the poll revealed that four out of five preferred the use of wood bats. She said the main issue is safety. She presented a wood bat and a metal bat to show the Committee, and explained the difference between the two. She had the Air Warrior, a metal bat, that is used in youth baseball, and informed the Committee, it holds three air bags, which allows the velocity of the baseball to go faster and farther. She talked about a National American Legion Conference that took place to discuss the use of wood and metal bats, when a baseball coach stood up and demonstrated the use of the metal bat, the end came off of the bat showing a weight that had been placed inside of the handle. She said if someone had been using the bat in a game when this happened, it could have had dire consequences. She urged the Committee to support HJ 19.

Kevin Patch, Brandon Patch's brother. He asked the Committee to pass HJ 19 so no one else will be killed.

Debbie Patch, Brandon Patch' mother. She said she will pursue this resolution if it takes the rest of her life. She asked the Committee to support HJ 19.

Colonial Jim Jacobson, Retired American Legion, expressed their deepest sorrow for the loss of Brandon Patch. He stated that the American Legion will be considering the resolution this summer.

Kathy Church, Aunt to Brandon Patch, stated her support for HJ 19.

Diane Money, Aunt to Brandon Patch, stated her support for HJ 19.

Opponents' Testimony:

George Manning, representing a bat company, said he has worked for the Louisville Slugger for the last 26 years. He distributed written testimony, which he read. (see Exhibit 3) He gave

{Tape: 2; Side: A}

background information on the owner who make the Little Slugger bats. He said that safety is the company's first priority. He discussed the NCAA, the National Federation of High Schools (NFHS), and the United States Consumer Product Safety Commission, who reviewed the safety of the game played with aluminum bats. The conclusion is that there are inherent risks associated with participation in any sport, but there is no data that clearly show the risks have increased over the last 20 years with aluminum bats. BESR, the independent tester for the NCAA and NFHS, report that there was a loophole in the testing, and some bats that met the BESR test would perform differently in the field. Dr. Johnson, a college physicist, who is also a member of NCAA's Baseball Research Panel, studied the situation, and concluded that the difference in the test and on the field would be very small. It was also concluded that a difference of a few miles per hour in exit velocity is not significant in whether a player can avoid being struck or not. In **Mr. Manning's** exhibit, he has provided numerous letters and research/studies that have taken place that do not prove aluminum bats are more dangerous than wood bats.

EXHIBIT (sts62a03)

{Tape: 2; Side: A; Approx. Time Counter: 7 - 14}

Jim Darby, Easton Sports, Van Nuys, California, informed the Committee he has been the chair on a Committee for the baseball/softball council. He said the accident that took Brandon Patch is real, but said that accidents like this are extremely rare. He asked the Committee to evaluate the data that HJ 19 is based on. He said all the "whereas are simply not true". He hoped the Committee would consider the resolution on fact, not testimony. He distributed a handout from the NCAA that reports the Federal agency, the U.S. Consumer Product Safety Commission, has denied a petition from J.W. McKay Jr. asking the commission to issue a rule requiring that all non-wood bats perform like wood bats.

EXHIBIT (sts62a04)

George Haegele, Chairman for the Montana American Legion, informed the Committee the American Legion adopted the NCAA Commission rule to reduce injuries in youth baseball. He

discussed the speed ratio. He said the American Legion continues to review the resolution from Florida, which is currently before the American Legion baseball subcommittee. He said that resolution is similar to this resolution that is being heard today. He said that injuries have been decreasing in the last several years. He also added that the American Legion has not had any increase in their insurance rates in the last four years. He said the American Legion will continue to look at the many ways to make baseball safe. He distributed a letter from Jeff Ballard, Billings, a former professional baseball player with the Baltimore Orioles and the Pittsburgh Pirates. **Mr. Ballard's** letter said he is neither a proponent nor a opponent, but he is concerned that some of the clauses in HJ 19 are not accurate, and that the Montana Legislature may adopt a resolution not based on the facts, as well as not correctly reflecting the American Legion baseball on the use and safety of aluminum bats.

EXHIBIT (sts62a05)

Informational Testimony:

Scott Mitchell, Attorney from Billings, representing the Louisville Slugger, the manufacturer of Little Slugger bats. He referred to Jeff Ballard's letter, and suggested subsequent language that will address all issues. He said the resolution is to encourage everyone to study the issue. He said this is an important issue, and they are willing to support a amendment that will address both sides of the argument

Questions from Committee Members and Responses:

SEN. ESSMANN asked **Mr. Manning** if there was data that correlates to a specific bat. **Mr. Manning** said the testing didn't refer to a specific bat. They discussed previous testimony about the trampoline affect with aluminum bats. He said the manufacture gives a one year warranty on aluminum bat. If the bats don't last for a year, they will be replaced.

{Tape: 2; Side: B}

SEN. GALLUS asked **REP. MATTHEWS** if they have thought about looking at the headgear that is worn, instead of the bat. **REP. MATTHEWS** replied that the national rules are not sure what type of headgear is best.

SEN. ELLINGSON asked **Mr. Manning** why they changed from wood to aluminum. **Mr. Manning** said that wood bats were breaking, and aluminum bats are better designed for durability. He added that

the change from wood to aluminum was originally done because of a safety issue.

{Tape: 3; Side: A}

SEN. TROPILA asked **Mr. Manning** about point number five on his written testimony, (see Exhibit 3), about the field study that was done comparing the performance of wood and aluminum bats in high school, college and pro players. The result showed that aluminum bats with the minus three ounce limit only hit a couple of miles per hour higher than wood bats. **SEN. TROPILA** wanted to know if the exit speed has to be the same from aluminum to wood. **Mr. Manning** said whether its wood or aluminum the test show the exit speed the same as a wood bat. He said the only difference is, the player can swing the aluminum bat faster because of its composite.

CHAIRWOMAN SQUIRES asked **REP. MATTHEWS** about the comments made regarding the language in the resolutions, and she asked what he wanted to do about it. **REP. MATTHEWS** replied that the comments from Jeff Ballard is a legend from his part of the state, and said he respects any of the comments and suggestions that Mr. Ballard may have. He said this resolution is the same one that Florida has. He informed Greg Petesch what he wanted, and this resolution is a result of that. He said he would be willing to accept language from Jeff Ballard's letter.

CHAIRWOMAN SQUIRES asked **REP. MATTHEWS** about Jim Darby's comments when he said, all of the "whereas" are a bunch of lies. **REP. MATTHEWS** said he didn't know what Mr. Darby is concerned about, but stated that he (**REP. MATTHEWS**) supports the resolution. He said on July 9, 2004, there was 1,183 delegates at the Florida convention that voted for this resolution.

CHAIRWOMAN SQUIRES asked **Jim Darby** about his comments that this resolution is full of lies. She continued to say that **REP. MATTHEWS** is a very good friend, and he wouldn't tell any lies. She said that was a very harsh statement to make about people in legislation. She said if he has any input that he would like leave here, he can do that, but if he leaves without giving the information he wants amended to the bill, she said, "we will make our own". **CHAIRWOMAN SQUIRES** asked **Mr. Darby** to meet with **Dave Bohyer, LSD**, to go over any of the changes he feels should be included in this resolution.

Closing by Sponsor:

REP. MATTHEWS closed stating that the American Legion is a great organization, and a charter of Congress. The American Legion has

done many good things for the community organizations, and they will be finishing their study on this issue by May. He hoped they will accept this resolution.

HEARING ON HB 530

{Tape: 3; Side: A; Approx. Time Counter: 8 - 13.2}

Opening Statement by Sponsor:

REP. GARY MATTHEWS (D), HD 40, opened the hearing on **HB 530**, Authorize signage for Miles City cultural heritage area. He informed the Committee that Miles city was a river boat town in the past. He said the government owns the land on the other side of the highway, and building of new billboards east of Miles City is declared commercial and industrial land, so signs are non-existent on that side of town. He said that Montana State University owns the other part. He distributed a picture of sign when entering Butte to inform tourists there is a historical site ahead. He said the signs entering Miles City will do the same.

[EXHIBIT \(sts62a06\)](#)

Proponents' Testimony:

Charlene Porsild, Research Director for the Montana Historical Society, distributed written testimony which she read.

[EXHIBIT \(sts62a07\)](#)

Opponents' Testimony: None.

Informational Testimony:

Mike Bousliman, Department of Transportation, said he is available for any questions the Committee may have.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. MATTHEWS closed. He asked the Committee to support this bill.

HEARING ON SJ 14

{Tape: 3; Side: A; Approx. Time Counter: 16.5 - 22}

Opening Statement by Sponsor:

SEN. JOSEPH (JOE) TROPILA (D), SD 13, opened the hearing on **SJ 14**, Comprehensive review of state active duty (SAD) process.

Proponents' Testimony:

Roger Hagan, representing the over 3,000 members of the officers and enlisted associations of the Montana National Guard, said this resolution will allow for a study on the increased use of the National Guard in-state, and the possibilities that they have had to deal with since September 11, 2001. He said the use of the Montana National Guard have increased considerably in its state active duty status. The resolution will allow for a declaration by the governor to protect Montana property. He said the resolution when passed through, will allow the Department of Administration and the interim committee to study what is being done in Montana to prevent future attacks, and to work with states by studying the impacts, such as finances, etc.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: **SEN. TROPILA** closed.

ADJOURNMENT

Adjournment: 6:00 P.M.

SEN. CAROLYN SQUIRES, Chairman

CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

EXHIBIT ([sts62aad0.PDF](#))