MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN MIKE WHEAT**, on March 8, 2005 at 8:05 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. Gary L. Perry (R)
Sen. Jim Shockley (R)

Members Excused: Sen. Gerald Pease (D)

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: HB 474, 3/3/2005; HB 367, 3/3/2005; HB 425, 3/3/2005; HB 473, 3/3/2005; HB 429, 3/3/2005; HB 762, 3/3/2005; HB 615, 3/3/2005
Executive Action: HB 24, HB 25, HB 26, HB 64, HB 110, HB 429

HEARING ON HB 474

{Tape: 1; Side: A; Approx. Time Counter: 0.6 - 7.3}

Opening Statement by Sponsor:

REP. ROSALIE (ROSIE) BUZZAS (D), HD 93, said that she is sponsoring HB 474 at the request of the MT Association of Counties (MACo). HB 474 eliminates the requirement that a county legal notice must be published in a newspaper with a paid circulation and a periodicals mailing permit. HB 474 does not eliminate the requirement for counties to publish legal notices, but allows them to do so in a competitive manner with newspapers that do not have paid circulations and mailing permits.

Proponents' Testimony:

Gordon Morris, Director, MACo, said that MACo members support HB 474 which eliminates the requirement that a county legal notice has to be published in a newspaper with a paid circulation. MACo is looking at newspapers that would be distributed free and do not have subscriptions. As a result, there is no requirement for a mailing permit which is fairly expensive.

Opponents' Testimony:

Colin Stephens, MT Newspaper Association, requested that testimony on HB 474 be discontinued until a later date because many of the Association's members were out of town and unable to comment on the bill.

SEN. MICHAEL WHEAT, SD 32, honored the request and suspended the hearing on HB 474 until a later date.

Both **SEN. JEFF MANGAN, SD 12,** and **REP. BUZZAS** objected to the continuation because the hearing was properly noticed.

HEARING ON HB 367

{Tape: 1; Side: A; Approx. Time Counter: 7.3 - 13.3}

Opening Statement by Sponsor:

REP. JOHN PARKER (D), HD 23, said that HB 367 was a housekeeping bill designed to clarify several points related to a bill passed in the 2003 Session which created an option for Justice Courts to establish themselves as courts of record. There are a number of opportunities that flow from making that choice in terms of

judicial efficiency. HB 367 streamlines the process for appeals and eliminates a certain category of frivolous appeals.

Proponents' Testimony:

Sam Harris, Justice of the Peace, Cascade County, said that HB 367 clarifies language both for the ease of the Courts and the access of the public. It shortens the name of the Court which is useful in the repetitive times that it has to be referred to in written documents, and it inserts language with the Justice Court of record in many places where only the Municipal Court was mentioned. The language was very confusing to the public because it did not know which sections of law applied to which Court. HB 367 also removes the provision that exempted attorneys from annual training which the Supreme Court did not allow for under its rulemaking authority.

Ted Klack, MT Magistrates Association, and Gordon Morris, Director, MACo, spoke in support of HB 367.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 1; Side: A; Approx. Time Counter: 13.3 - 21.8}

Questions from Committee Members and Responses:

SEN. JESSE LASLOVICH, SD 43, asked if the language in HB 367 applied to Municipal Court Judges as well. **Mr. Harris** said, yes, it is the same language that applies to Municipal Court Judges. It does not increase the jurisdiction of the Court, only the types of powers the Courts have in handling the cases before them.

SEN. BRENT CROMLEY, SD 25, asked if HB 367 requires that all Justice Courts be courts of record. **REP. PARKER** said that HB 367 does not change the nature of existing law which states that Justice Courts can determine whether or not they want to become courts of record. There is nothing mandatory in current law or HB 367.

SEN. JERRY O'NEIL, SD 3, asked how many Justice Courts, at the present time, have Justices of the Peace (JPs) who are not licensed attorneys. **REP. PARKER** was unsure, but HB 367 was not designed to establish the requirement that all JPs be licensed attorneys. **SEN. O'NEIL,** asked why HB 367 deletes the ability for a friend or relative to represent someone in Justice Court. **Mr. Harris** replied that there is some difference in the nature of the

proceeding in the court of record. The thinking is that any mistakes made can be reviewed and addressed upon appeal. In a court of record, that is not the case. The person gets one shot. It is the Courts authority and ability to decide who comes before it as parties and litigants. The provision is abused more than it is used in Montana Courts.

Closing by Sponsor:

REP. PARKER urged the Committee's support of HB 367.

HEARING ON HB 425

{Tape: 1; Side: A; Approx. Time Counter: 21.9 - 24.5}

Opening Statement by Sponsor:

REP. JOHN PARKER (D), HD 23, said that HB 425 transfers the state's Consumer Protection Agency and its functions from the Department of Administration to the Department of Justice (DOJ). He said that state budget resources are slim, and the Legislature will deliver more value to the taxpayers by placing this function with an existing office that has a team of seasoned litigators and experienced prosecutors rather than a stand-alone agency. Another consideration is the implementation of the state public defender system. He felt that having a state public defender system under the Department of Administration and a law enforcement function in the same agency could potentially pose a conflict of interest because litigation will be happening on both sides of an issue.

{Tape: 1; Side: A; Approx. Time Counter: 24.5 - 28.6}

Proponents' Testimony:

Del Lonnquist, AARP Montana, provided written comments in support of HB 425.

EXHIBIT(jus51a01)

Opponents' Testimony: None.

{Tape: 1; Side: B; Approx. Time Counter: 37.7 - 41.4}

Informational Testimony:

Galen Hollenbaugh, Deputy Chief of Staff, DOJ, was available to answer questions.

Questions from Committee Members and Responses:

SEN. WHEAT asked why representatives from the Departments were not present to testify on HB 425. **REP. PARKER** was unsure, but added that neither Department is taking a position on the bill. **SEN. WHEAT** asked if the DOJ had any problem taking on the responsibility of Consumer Protection Agency. **Mr. Hollenbaugh**, said, no, adding that the DOJ did not testify as a proponent because it felt that supporting a move of this type could create a fight between the Departments. the DOJ did not want to present that image.

Closing by Sponsor:

REP. PARKER urged the Committee's support of HB 425 by placing the consumer protection function in an area where it would make the most sense.

HEARING ON HB 473

{Tape: 1; Side: B; Approx. Time Counter: 41.4 - 47.1}

Opening Statement by Sponsor:

REP. JOHN PARKER (D), HD 23 said that HB 473 addressed the need pertaining to when permits have to be issued during fire season and what those permits have to cover related to residential and commercial property. He added that HB 473 may require an amendment for the exception of a small, nonflammable fire ring. Concerns were expressed that the proposed circumference of the fire ring was too large.

Proponents' Testimony:

Leonard Lundby, Fire Chief, Vaughn Volunteer Fire Department, said that with the opening of the burn season, Cascade County is running themselves ragged chasing burns that are not permitted or burns that have gotten out of control. The problem is that the current statute gives county commissioners authority over controlled burns on rangeland, farmland, cropland, and forested areas. It does not address subdivision areas. The Cascade County Attorney and Sheriff's Department will not issue a citation because they do not have jurisdiction and authority to do so. He added that a similar bill was introduced in the 2003 Session, but it ran into difficulty when the issue of recreational fires was discussed. HB 473 tries to address it. However, recreational fires are not his major problem. His problem lies in the fact that he must have residential and commercial residences added to

the statute so that the Fire Department has the authority and jurisdiction to control those types of burns.

{Tape: 1; Side: B; Approx. Time Counter: 47.1 - 49.7}

Paul Brady, Fire Chief, Dearborn Volunteer Fire Department, said that his area consists of very rugged mountains with people living in every nook and cranny. A number of residents think it's a joke when the Fire Department asks them to get fire permits for burning because no one will do anything to them if they do not. **Mr. Brady** added that his fire area is split between two counties. He has the ability to issue permits in Lewis and Clark County but not in Cascade County. He requested the Committee's support of HB 473 to prevent the wasteful hours spent because people will not buy a burn permit.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 1; Side: B; Approx. Time Counter: 49.7 - 62.5}

Questions from Committee Members and Responses:

SEN. CROMLEY asked about the current status regarding the prohibition of fires. **Mr. Lundby** said that a permit is required to burn in a county. However, problems arise when residents do not comply with the regulation to get a permit. There is no authority to enforce the law; i.e., since residential property is not listed in statute, the Sheriff will not issue a citation and the County Attorney will not prosecute a citation.

SEN. AUBYN CURTISS, SD 1, said that in her area, people have to apply for an air quality permit in order to burn. She felt that a 48-inch-diameter recreational fire would fall under those rules. **Mr. Lundby** said that air quality permitting is outside the scope of Fire Chiefs and the rural fire coordinator. Typically, air quality permits come from the County Health Department and involve fires that may have potentially toxic consequences. **SEN. CURTISS** was concerned about the language of HB 473 and suggested further investigation.

SEN. CROMLEY asked about the "recognized protection area" in the various parts of the state. **REP. PARKER** said that the language was added to HB 473 because there is a patchwork of jurisdictions across the state due to the nature of the different categories of federal and state lands. The language attempts to recognize that if the state has a law that targets what can and cannot be done in a county area, it cannot ignore the fact that there are a

number of land protection regimes throughout the state based upon different categories of state and federal land.

Closing by Sponsor:

REP. PARKER said that 7-23-2205, MCA, operates as enabling legislation and sets the parameters for what a county government can do in terms of establishing fire seasons. HB 473 will provide counties with the those same parameters as they relate to residential and commercial properties.

HEARING ON HB 429

{Tape: 1; Side: B; Approx. Time Counter: 62.5 - 62.6}

Opening Statement by Sponsor:

REP. GAIL GUTSCHE (D), HD 99, HB 429 amends 16 environmental laws administrated by the Department of Environmental Quality (DEQ) to standardize the factors that must be considered when calculating penalties for violating environmental laws, rules, or permits.

{Tape: 2; Side: A; Approx. Time Counter: 0.3 - 30.1}

Proponents' Testimony:

John Arrigo, Administrator, Enforcement Division, DEQ, provided written comments that explained the contents of HB 429 and information regarding the penalty factors currently specified in statute.

EXHIBIT(jus51a02)
EXHIBIT(jus51a03)

Bud Clinch, Executive Director, Montana Coal Council, said that attempts to clarify enforcement statutes in the past have been met with much opposition. However, the coal industry has been strictly regulated for many years, so the types of processes and penalties included in HB 429 are not foreign to the industry. Although the industry it is comfortable with the language in HB 429, it is concerned about the processes and fairness by which the penalties are assessed. He cautioned that not all parties invited to the interim committee process were comfortable with HB 429.

Don Allen, Western Environmental Trade Association (WETA), said that the WETA participated in the working group process and efforts were made to reach middle ground. He supported HB 429.

Gail Abercrombie, MT Petroleum Association (MPA), said that the MPA also participated in the working group throughout the interim and HB 429 is a good middle ground. However, MPA, along with WETA and the Montana Coal Council, will resist any significant amendments to HB 429 because of the balance that was achieved throughout the interim.

Tom Ebzery, Exxon Mobil Refinery, Billings, spoke of the interim working group process and, although HB 429 is not an industry-friendly bill, he supported HB 429 in its present form.

Michael Kakuk, MT Contractors Association, said that his clients are hard pressed to see their fines increase. However, they get into trouble in the areas of the Air Quality Act, Water Quality Act, and the Open Cut Act because all of the enforcement statutes are different. He felt that it would be more efficient for them if the enforcement of those three acts were consistent. He supported HB 429.

Jeff Barber, MT Environmental Information Center (MEIC), said that MEIC thinks that the concept of HB 429 is probably good. However, it has never been completely convinced that the bill is needed. **Mr. Barber** provided proposed amendments and explained them. He said that with the amendments, MEIC would fully support HB 429. He also emphasized that HB 429 was a consensus bill among the industry stakeholders only, but not all interested parties.

EXHIBIT(jus51a04)

{Tape: 2; Side: B; Approx. Time Counter: 34.8 - 44.1}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. O'NEIL asked if the MT Contractors Association were in favor of the proposed amendments by the MEIC. **Mr. Kakuk** said that the Association would vehemently oppose the amendments because if there has been an environmental violation, the size of the violator should not enter into the penalty calculation. The violation was either done or it was not done. If a violation occurred, the question should be, how bad was it? The size of the violator has no logical connection to the size of the penalty.

SEN. CURTISS asked for comment on the $1.3 million in outstanding bills and how many cases the money involves. **Mr. Arrigo** said, since 1990, the unpaid penalties relate to dozens of cases.

However, some of the largest are $137,000 for a junk vehicle case and $188,000 for an individual who violated the public water supply laws. **SEN. CURTISS** asked if the DEQ anticipated making more collections under the provisions of HB 429. **Mr. Arrigo** said that the collection provision will allow the private collection agency to "tap" the individuals if they have the resources. However, if people do not have the resources, the penalty will continue to be unpaid. The number of collections or penalties will not increase. **SEN. CURTISS** asked about where the fees were deposited. **Mr. Arrigo** provided information on where the penalties are deposited.

EXHIBIT(jus51a05)

{Tape: 2; Side: B; Approx. Time Counter: 44.3 - 44.4}

SEN. CROMLEY felt that the size of the violator could already be taken into account under the penalty phase of HB 429. **Mr. Arrigo** said that the language "other matters that justice may require" could be viewed as kitchen-sink language. The DEQ views it as other matters that would make it equitable to the DEQ and the violator. It is difficult to quantify. Size of the violator is not listed as a factor in any environmental law. However, it is used in the Environmental Protection Agency (EPA) air quality penalty policy.

SEN. WHEAT asked if changing the past history amendment from 3 years to 5 years would be a significant change that would force the Montana Coal Board to oppose the bill. **Mr. Clinch** said that the issue was discussed during the interim, but he knew that his member companies did not agree with it.

Closing by Sponsor:

REP. GUTSCHE said that HB 428 was a collaborative effort, and it improves accountability and enforcement and standardizes penalties and factors to make it easier for DEQ to enforce.

HEARING ON HB 726

{Tape: 3; Side: A; Approx. Time Counter: 0.2 - 1.8}

Opening Statement by Sponsor:

REP. GAIL GUTSCHE (D), HD 99, said that HB 726 provides structured programming for probationers through existing prerelease centers or other nonprofit day reporting organizations. It allows judges to sentence low-risk offenders,

who have high needs, directly to a day-reporting program, and it allows probation officers to sanction offenders who violate terms of probation by sending them to a day-reporting program rather than back to jail.

{Tape: 3; Side: A; Approx. Time Counter: 1.8 - 9.8}

Proponents' Testimony:

Michelle Jenicek, Prerelease Unit Manager, Department of Corrections (DOC), said that currently, the day-reporting program is not an option for probationers. It is only available to residents of a prerelease program and is used as a way to transition them into the community. Offenders on a day-reporting program live in their own residence, but they are required to comply with a number of rules in order to be accountable. HB 726 gives probation officers another tool to use in managing probationers who are out of compliance and used in lieu of returning them to sentencing court to request a revocation of their probation. She urged the Committee's support of HB 726.

Ron Alsbury, Probation and Parole Bureau Chief, DOC, said that HB 726 is a viable officer resource because close monitoring of offenders and high case management expectations are good predictors for success in offenders. He added that HB 726 generates its own funding source by using the pre-sentence investigation fee.

Mike Ruppert, CEO, Boyd Andrew Center, spoke in support of HB 726.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 3; Side: A; Approx. Time Counter: 9.8 -20.3}

Questions from Committee Members and Responses:

SEN. SHOCKLEY asked about the cost of the program. **REP. GUTSCHE** said that there is a cost, but the cost of keeping someone in prison is much more than keeping an offender incarcerated for a day. She felt that there should be a cost savings for those who are eligible to take advantage of the day-reporting programs.

SEN. SHOCKLEY asked if the DOC anticipated implementing HB 726, and, if so, on what scale. **Mike Ferriter, Administrator, Community Corrections Division, DOC,** said that the DOC is anticipating the implementation of HB 726 and anticipates the

cost to be approximately $17 per day per offender. To take money from the prison side of the DOC to offset the program is premature.

SEN. MANGAN asked if thought was given to expanding the program beyond the prerelease centers. **Mr. Ferriter** said that the issue was discussed, but the Department saw prerelease as a good opportunity because it already existed. However, it is not to say that it could not be done by someone else. **SEN. MANGAN** proposed an amendment to HB 726 to extend the program to Montana corporations to provide another latitude for the DOC.

Closing by Sponsor:

REP. GUTSCHE said that HB 726 provides an option for the Department when sanctioning and Judges can use when sentencing low-risk but high-need offenders. She urged the Committee's support.

HEARING ON HB 615

{Tape: 3; Side: A; Approx. Time Counter: 20.3 - 25.5}

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS (D), HD 66 said that HB 615 creates an environmental violations unit within the DOJ. Environmental violations are crimes against the Montana Clean Air and Clean Water Act and other laws under Title 75 that are both deliberate and egregious. He added that HB 615 would allow the DOJ to prosecute environmental crimes referred by the DEQ which, currently, it does not have the authority to do. He provided written comments from John Connor, Chief Criminal Counsel, DOJ, in support of HB 615.

EXHIBIT(jus51a06)

{Tape: 3; Side: B; Approx. Time Counter: 5.9 - 10.2}

Proponents' Testimony:

REP. ART NOONAN, HD 73, provided information on the Rhodia Case whose site was in his district.

EXHIBIT(jus51a07)

REP. NOONAN said that the Rhodia Case is one of the largest settlements involving environmental issues in the United States.

He said that although the people in his district and the state blew the whistle, they did not have the capacity to prosecute the case. As a result, it went to the federal government. The federal government received $16 million of the settlement while the Montana DEQ received $1.8 million. If a recovery law existed in Montana, it would have allowed his constituents to be compensated for the problem.

{Tape: 3; Side: B; Approx. Time Counter: 10.2 - 14.9}

Galen Hollenbaugh, DOJ, spoke in support of HB 615.

Anne Hedges, MEIC, said that HB 615 said that under Rhodia, the DEQ had to have one of their hazardous waste attorneys deputized as a local county attorney in order for the state to participate in the case. It makes more sense to let the state handle the big issues at the state level when necessary.

John Wilson, MT Trout Unlimited, said that HB 615 would protect public health and safety as well as valuable fish and wildlife resources in Montana.

{Tape: 3; Side: B; Approx. Time Counter: 14.9 - 30.9}

Opponents' Testimony:

Michael Kakuk, WETA, said that HB 615 makes it easier to prosecute environmental crimes within the state, and WETA believes it is unnecessary. The bill is not revenue generating, and there is no trigger in the bill as to when DEQ can prosecute "deliberate or egregious". If HB 615 is passed, criminal violations will be conducted more often than they are now. **Mr. Kakuk** said that there would also be a much greater fiscal impact than the $1,800 indicated in the fiscal note because HB 615 creates an office or affixes a box. If the box is created, there is always the tendency to fill it. He said Montana does not need a state environmental crimes investigation and prosecution office.

Gail Abercrombie, MT Petroleum Association, agreed with **Mr. Kakuk** and said that HB 615 would discourage businesses from coming into the state.

Rhoda Cargill, Grass Root Alliance for Sensible Science Policy, (GRASSP), provided written comments in opposition to HB 615.

EXHIBIT(jus51a08)

Clarice Ryan, Bigfork, spoke in opposition to HB 615 because it makes criminals out of ordinary citizens and because its language is subject to interpretation and possible exaggeration.

Informational Testimony: None.

{Tape: 4; Side: A; Approx. Time Counter: 7.7 - 15.4}

Questions from Committee Members and Responses:

SEN. LYNDA MOSS, SD 26, said that according to opponent testimony, this type of environmental office would cause corporations to not invest in Montana. She asked if that were the case in other states that have the office. **REP. HARRIS** felt that was a "red herring" of an argument. He said that opponents are saying that it is okay to have the environmental crimes provisions in statute and its okay to theoretically prosecute them, but the state should not actually prosecute them.

SEN. SHOCKLEY asked if there would be any fiscal impact under HB 615. **REP. HARRIS** said that the bill's intent is to take an experienced prosecutor who knows his or her way around the system and get them trained by the EPA so that, if and when an environmental crimes case arises, they will be capable of prosecuting the case. Another FTE would not be created.

{Tape: 4; Side: A; Approx. Time Counter: 15.5 - 18.5}

SEN. GARY PERRY, SD 35, asked, what is not working in the current system that requires the need for HB 615. **REP. HARRIS** said that currently, the DEQ does not have the formal authority to refer any criminal environmental case to the DOJ.

{Tape: 4; Side: A; Approx. Time Counter: 18.8 - 18.9}

SEN. CROMLEY asked if HB 615 was limited to prosecuting criminal environmental violations. **REP. HARRIS** said, yes. **SEN. CROMLEY** questioned whether HB 615 should be amended to include the language "criminal" violations under Title 75. **REP. HARRIS** was amenable to the amendment.

SEN. CROMLEY asked if there was any concern that the Attorney General's Office would not prosecute these crimes in a reasonable and logical way. **Ms. Abercrombie** said that HB 615 is looked upon by some companies as a crusade to go zealously beyond the types of administrative and criminal penalties that are already in statute. Although she hoped that the Attorney General's Office would prosecute these cases in a reasonable and logical way, it is not guaranteed because the Office is a political one.

SEN. SHOCKLEY asked if the Attorney General could prosecute an environmental crime notwithstanding HB 615. **REP. HARRIS** said that the Attorney General could, under the right circumstances, prosecute an environmental case. The problem is that without the referral authority, it would have to figure out a way to get the assistance from the DEQ. **SEN. SHOCKLEY** felt that HB 615 limits the ability of the Attorney General to act because it requires the referral from DEQ.

{Tape: 4; Side: B; Approx. Time Counter: 2.6 - 3.6}

SEN. PERRY asked if the DEQ could currently request the assistance of the Attorney General's Office. **Mr. Hollenbaugh** said, yes, but having statutory authority as proposed in HB 615, would clarify the Department's authority and forestall any legal challenges to the assumption of those cases.

SEN. WHEAT asked what the DEQ does for the purposes of prosecuting criminal violations of Title 75. **Mr. Arrigo** said that currently, if the Department believes that criminal activity has occurred, it refer the case to the EPA's Criminal Investigation Division. **SEN. WHEAT** asked if HB 615 were to pass, would it be helpful to the DEQ if it were to encounter a criminal violation of Title 75. **Mr. Arrigo** said, yes, in that it would provide the Department with another avenue. If the DEQ refers a case to the federal EPA, it is out of the Department's hands and it has no influence or authority over the case.

Closing by Sponsor:

REP. HARRIS said that the logic of HB 615 is whether the state should keep the existing criminal provisions in statute just for show or should it prosecute them when appropriate. He thought it perfectly justifiable to prosecute them, when appropriate, by trained criminal prosecutors. He urged the Committee's support of HB 615.

EXECUTIVE ACTION ON HB 24

{Tape: 4; Side: B; Approx. Time Counter: 10.8 - 13.8}

Motion/Vote: SEN. CROMLEY moved that HB 24 BE CONCURRED IN. Motion carried unanimously by voice vote. SENATORS PEASE and MCGEE voted aye by proxy. SEN. MOSS will carry the bill.

EXECUTIVE ACTION ON HB 25

{Tape: 4; Side: B; Approx. Time Counter: 13.8 - 15.1}

Motion/Vote: SEN. MANGAN moved that HB 25 BE CONCURRED IN. Motion carried unanimously by voice vote. SENATORS PEASE and MCGEE voted aye by proxy. SEN. WHEAT will carry the bill.

EXECUTIVE ACTION ON HB 26

{Tape: 4; Side: B; Approx. Time Counter: 15.2 - 17.1}

Motion/Vote: SEN. MANGAN moved that HB 26 BE CONCURRED IN. Motion carried unanimously by voice vote. SENATORS PEASE and MCGEE voted aye by proxy. SEN. WHEAT will carry the bill.

EXECUTIVE ACTION ON HB 64

{Tape: 4; Side: B; Approx. Time Counter: 17.1 - 20.4}

Motion: SEN. MANGAN moved that HB 64 BE CONCURRED IN.

Discussion: SEN. CROMLEY spoke against HB 64 because it did nothing. He said the state already had good rules of evidence with regard to limiting expert testimony.

Vote: SEN. MANGAN'S motion that HB 64 BE CONCURRED IN carried on a 9 to 2 voice vote. SENATORS O'NEIL and CROMLEY voted nay. SENATORS PEASE and MCGEE voted aye by proxy. SEN. PERRY will carry the bill.

EXECUTIVE ACTION ON HB 110

{Tape: 4; Side: B; Approx. Time Counter: 20.4 - 24.5}

Motion/Vote: SEN. LASLOVICH moved that HB 110 BE CONCURRED IN. Motion carried unanimously by voice vote. SENATORS PEASE and MCGEE voted aye by proxy. SEN. LASLOVICH will carry the bill.

EXECUTIVE ACTION ON HB 216

Motion: SEN. CROMLEY moved that HB 216 BE CONCURRED IN.

Discussion: Amendments were requested.

SEN. CROMLEY withdrew his motion. No action was taken.

EXECUTIVE ACTION ON SB 493

{Tape: 4; Side: B; Approx. Time Counter: 24.5 - 27.3}

Motion: SEN. LASLOVICH moved that SB 493 DO PASS.

Discussion: Amendments were requested.

SEN. LASLOVICH withdrew his motion. No action was taken.

EXECUTIVE ACTION ON HB 425

Discussion: Amendments were requested.

No action was taken.

EXECUTIVE ACTION ON HB 429

{Tape: 4; Side: B; Approx. Time Counter: 27.3 - 27.4}

Motion: SEN. CROMLEY moved that HB 429 BE CONCURRED IN.

Motion: SEN. CROMLEY moved the approval of amendment #HB042903.ajk. Motion carried on a 10 to 1 voice vote. SEN. CURTISS voted nay. SENATORS PEASE and MCGEE voted aye by proxy.

EXHIBIT(jus51a09)

Motion: SEN. CROMLEY moved that HB 429 BE CONCURRED IN AS AMENDED.

{Tape: 5; Side: A; Approx. Time Counter: 0.4 - 3.5}

Discussion: SEN. WHEAT said that venue will be in the county in which the violation occurred unless it is mutually agreed to by the parties to have it in Lewis and Clark County.

SEN. CURTISS opposed HB 429 because it was too comprehensive in that it amends air quality rules. She also felt that the fiscal note was a joke.

Vote: SEN. CROMLEY'S motion carried on a 10 to 1 voice vote with SEN. CURTISS voting nay. SENATORS PEASE and MCGEE voted aye by proxy. SEN. PERRY will carry the bill.

ADJOURNMENT

Adjournment: 11:36 A.M.

_____
SEN. MIKE WHEAT, Chairman

_____
MARI PREWETT, Secretary

_____
LOIS O'CONNOR, Transcriber

MW/mp

Additional Exhibits:

EXHIBIT(jus51aad0.TIF)