

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Bill Strizich, on April 23, 1991, at 10:00 a.m.

**ROLL CALL**

**Members Present:**

Bill Strizich, Chairman (D)  
Vivian Brooke, Vice-Chair (D)  
Arlene Becker (D)  
William Boharski (R)  
Royal Johnson (R)  
Vernon Keller (R)  
Thomas Lee (R)  
Bruce Measure (D)  
Charlotte Messmore (R)  
Linda Nelson (D)  
Angela Russell (D)  
Jessica Stickney (D)  
Howard Toole (D)

**Members Excused:** Rep's: Brown, Clark, Darko, Gould, Rice, Whalen, Wyatt

**Staff Present:** John MacMaster, Leg. Council Staff Attorney  
Jeanne Domme, Committee Secretary

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

**HEARING ON HJR 56**  
**RESOLUTION DIRECTING INDIAN AFFAIRS TO CONDUCT STUDY ON**  
**DISPARITIES IN SENTENCING OF NATIVE AMERICANS**

**Presentation and Opening Statement by Sponsor:**

**REP. RUSSELL, HOUSE DISTRICT 99,** stated that this resolution will direct the Committee on Indian Affairs to take a look at the disparities in sentencing of Indian people to the prison system in the state of Montana. She stated that Native Americans make

up 17% of all prison inmates while the Native American population in the state is about 6%. She felt that the Native American percentage of prison inmates is a very strong disparity. The Committee on Indian Affairs in conjunction with the University of Montana Law School and Montana Bar will look at what is happening in the state. She stated that she also wanted a provision in the resolution for the Committee on Indian Affairs to seek some outside dollars but she was unable to locate a similar provision in another resolution. The Legislative Council has the authority to look for extra and private dollars if needed for HJR 56. "I hope you will give your favorable consideration of this resolution."

Proponents' Testimony:

Kathleen Flurry, Administrator - Indian Affairs and a Board Member of the Board of Pardons, stated that she supports HJR 56. She stated that she could substantiate the large number of Native Americans in Montana's prison system.

Opponents' Testimony: NONE

Questions From Committee Members:

REP. JOHNSON asked Ms. Flurry what is the make-up on the Committee of Indian Affairs? Ms. Flurry stated that there are 2 members from the House and 2 members from the Senate. The Committee is bipartisan. She didn't think there was anything that sets up a number of people that would be Indians on the Committee. REP. JOHNSON asked what the gender balance was? Ms. Flurry stated that the Committee didn't have a women on it.

REP. JOHNSON asked Ms. Flurry how the 17% Native American prison population relates to the number of inmates that go before the Board of Pardons? Ms. Flurry stated that 75% of the inmates paroled in a one day hearing were Native Americans.

REP. MEASURE asked Ms. Flurry if she felt the strength of the resolution is sufficient to have the Department of Institutions cooperate in the procedure of the study? Ms. Flurry stated that it is her opinion that the Director of the Department of Institutions would be very cooperative.

Closing by Sponsor:

REP. RUSSELL stated that when she first started looking into the issue of Native American prison population, she learned there was a similar type of study from Legislation in the state of Washington and has been comprehensive study. She stated that she hoped next session someone will introduce such a piece of legislation to take a look at sentencing. The state of Washington found there was a discrepancy in sentencing. Some people were sentenced high and some were sentenced low. She felt this was something the state of Montana needed to do not only for

Native Americans but all the people in the state of Montana.

EXECUTIVE ACTION ON HJR 56

Motion: REP. RUSSELL MOVED HJR 56 DO PASS.

Discussion:

REP. BROOKE stated that the Department of Institutions is updating their computer data base and they are working at getting better records and figures for the whole sentencing system.

REP. BOHARSKI asked what the conviction rate was for Native Americans?

REP. RUSSELL stated that she didn't have those figures but looking at the prison numbers the conviction rate could possibly be higher.

REP. JOHNSON asked REP. RUSSELL what is the make-up of the Committee on Indian Affairs? REP. RUSSELL stated that last session there were 2 people from the House, Clyde Smith and Bob Gervais. There was a petition within the House that the Representative not be assigned to more than one committee, and as a result is how the committee make-up came out. She stated that the gender balance of the resolution came about last session and agreed there should be a gender balance but would depend on the Senate.

REP. JOHNSON asked REP. MEASURE on line 17, page 2, what sort of dictator mandate is that concerning HJR 56? REP. MEASURE stated that it is not very strong. The House of Representatives have a certain authority but it isn't the law. He felt the University of Montana Law School with cooperate because of their strong Native American Law Study Program, the Bar Association will be a little less enthusiastic because they don't have the resources and he said his concern lies with the Department of Institutions as in cooperating.

REP. BOHARSKI stated that he didn't understand why the committee would want to pass this resolution out of the committee today when they tabled the interim study resolution yesterday.

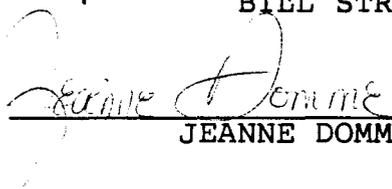
REP. RUSSELL stated that she understood that the University of Montana has already started some work toward the prison sentencing issue and would involve some of their law students to gather information. The Montana State Bar has a Gender Fairness Committee that has been working on that issue.

Vote: Motion carried 19 to 1 with Rep. Boharski voting no.

ADJOURNMENT

Adjournment: 10:25 a.m.

  
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BILL STRIZICH, Chair

  
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JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 4-23-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN			/
REP. ROBERT CLARK			/
REP. PAULA DARKO			/
REP. BUDD GOULD			/
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE			/
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		<i>mm</i>
REP. TIM WHALEN			/
REP. DIANA WYATT			/
REP. BILL STRIZICH, CHAIRMAN	/		

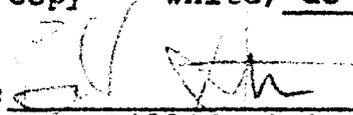
HOUSE STANDING COMMITTEE REPORT

1:40  
7-5-91  
JDI

April 23, 1991

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Mr. Speaker: We, the committee on Judiciary report that House Joint Resolution 56 (first reading copy -- white) do pass .

Signed:   
Bill Strizich, Chairman

