

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
January 18, 1979

The tenth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink on the above date at 10:03 a.m. in room 331.

ROLL CALL:

All members were present with the exception of Senator Mike Anderson, who was excused.

CONSIDERATION OF HOUSE BILL 41:

Bob Pyfer, Staff Attorney for the Legislative Council, gave an explanation of this bill, which is an act to generally revise the laws relating to estates, trusts, and fiduciary relationships. He emphasized sections 3, 27 and the repealers. Senator Turnage questioned repealing section 93-1401-3 and said he felt better with secondary evidence in the act. Senator Turnage moved to amend the bill on page 29, line 10 by striking the words, "and 93-1401-3," and to so amend the title. The motion carried unanimously.

Senator Turnage asked some questions of Tom Stoll, the administrator of the inheritance tax division of the Department of Revenue, particularly in regard to repealing sections 91-523 and 91-519. Mr. Stoll replied that when the preceding sections were repealed, that he thought that these sections did not apply anymore. Senator Turnage questioned Mr. Stoll in connection with the amendment there and Mr. Stoll replied that they had no problem with this amendment, that they had been having a problem for twenty years and that this would help clear it up.

Senator Turnage and Senator Towe questioned on page 14, section 22, the material "Recorded papers evidencing a transfer". Senator Turnage felt that the words "is considered" would make a difference and maybe should be "consistent". Mr. Pyfer explained that "shall be deemed" is the original language and that this change was just for style. Senator Turnage was concerned about transfer evidence that is not recorded. Mr. Pyfer said this was prima facie proof at the time the transfer was recorded and this was just a clarification. Mr. Stoll stated that they always interpreted prima facie evidence as the date of transfer and later on, if after death, to have been made by will. Senator Towe wondered how the department handled this where on one hand prima facie evidence of transfer is recorded and on the other hand the transfer is recorded after death. Mr. Stoll explained that this is handled as if it were a transfer at death. Their interpretation is that it is valid.

Minutes - January 18, 1979  
Senate Judiciary Committee  
Page Two

Senator Towe said he felt that this really didn't change the meaning and that he felt the bill was alright. Mr. Stoll and the committee agreed.

DISPOSITION OF HOUSE BILL 41:

Senator Turnage moved that House Bill 41 be concurred in as amended. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 6:

Joan Mayer, attorney for the Legislative Council gave an explanation of this bill, which is an act to revise the law relating to crimes. Senator Turnage asked if this applied only to criminal code. Ms. Mayer answered in the negative, saying that this would apply to all codes by changing "in this title" on page 1, line 16. She explained that they need these definitions elsewhere also. Senator Turnage felt that it was wrong to have criminal definitions crop up in the regular codes. Ms. Mayer said that this is the way it was originally written.

Senator Towe said that the definition of a home in a criminal action would certainly be different than the definition of a home in a tax matter.

Senator Turnage moved that on page 1, line 16, we insert the words "in this title" following word "title". The motion carried unanimously.

There was much discussion concerning repealing section 34-112, but it was decided that this was covered in other places in the codes.

DISPOSITION OF HOUSE BILL 6:

Senator Turnage moved that this bill be concurred in as amended. The motion carried unanimously.

There being no further business, the meeting was adjourned at 11:05 a.m.

*Everett R. Lensink*

SENATOR EVERETT R. LENSINK, Chairman  
Senate Judiciary Committee

# STANDING COMMITTEE REPORT

January 18, 1979

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 41

Respectfully report as follows: That House Bill No. 41  
third reading, be amended as follows:

1. Title, line 8.  
Following: "91-523,"  
Insert: "AND"

2. Title, line 8.  
Strike: "AND 93-1401-3,"

3. Page 29, line 10.  
Following: "91-523,"  
Insert: "and"

4. Page 29, line 10.  
Strike: "and 93-1401-3,"

And, as so amended  
BE CONCURRED IN  
GCRASSK

# STANDING COMMITTEE REPORT

January 13, 1979

MR. President:

We, your committee on **Judiciary**.....

having had under consideration **House**..... Bill No. **6**.....

Respectfully report as follows: That **House**..... Bill No. **6**.....  
**third reading, be amended as follows:**

1. Page 1, line 16.  
Following: "title"  
Insert: "in this title"

And, as so amended  
**BE CONCURRED IN**  
**RO PASS**

STATE PUB. CO.  
Helena, Mont.

*E. R. Lensink*  
**Everett R. Lensink** Chairman.

*N.C.*

Date 4/18/79

## ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

SENATE

Judiciary

COMMITTEE

BILL HB-41

VISITORS' REGISTER

DATE

HB-1

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)  
SUPPORT  
OPP.

Tom Stolle

DEPT OF REVENUE

HB-41

LAWYER P. T. AHN

LAWYER OF WOMEN VETERS

Rep. D. A. Fox

Code Commissioner

HB-41

Tom Ritter

Senate Aid

HB-41-6