

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 24, 1979

The fourteenth meeting of the Senate Judiciary Committee was called to order by Senator Lensink in room 311 at 10:03 a.m. on the above date.

ROLL CALL:

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

CONSIDERATION OF SENATE BILL 164:

Senator Peterson from Senate District 2 in Butte stated that he introduced this bill at the request of the Code Commission. This bill is an act requiring agencies to recodify administrative rules of Montana and to change references to the revised codes of Montana, 1947, to the Montana Code Annotated, and to bi-ennially review its rules. He introduced Bob Pyfer from the Legislative Council.

Mr. Pyfer explained the bill stating that the agencies are required to take a look at the arrangement of the rules and this is to be done by January 1, 1980. It also requires a report to be made by each agency which is similar to the code commission report.

Ms. Julie Glosser from the Secretary of State's office offered some amendments which the Secretary of State's office feels will allow a more orderly process. A copy of the amendments are attached, which is noted as Exhibit A.

Senator Turnage questioned if they felt that the amendments were workable and Mr. Pyfer responded that they made it more clear.

Senator Brown commented that they are going to find lots of rules that agencies have adopted that were just implied and not very exact. He stated that there may be questions as to whether rules should have been adopted in the first place. He can foresee lots of hassles. One problem may be that they cannot be recodified until next legislature. He feels that it is a problem that should be dealt with in this bill, but he does think that this is a very good bill.

Senator Towe questioned the aspects of suspension of rules and there was some discussion.

Senator Brown questioned the urgency of having this accomplished by January 1, 1980. He stated that the next legislature does not meet until January, 1981 and wondered if this date was not unrealistic for some departments such as Social and Rehabilitative Services.

Senator Lensink wondered where the expertise is going to come from, and who is going to keep it uniform, etc.

Ms. Glosser stated that their office hopes to oversee, they will be in charge of publishing and distribution.

Mr. Pyfer stated that this is certainly a problem and it would be terrific if the Secretary of State or the Legislative Council could get enough funds for staff, office, equipment, etc., to do this but you are talking millions of dollars. He explained that each particular agency does have their own attorneys to probably know their own rules better than anyone else and stated that uniformity may be something of a problem.

Senator Brown stated that the major concern may be not with the expertise available but the problem is probably going to be clerical, i.e., the final typing of forms that complies with a new numbering system, etc. He still could see a problem with meeting the January 1, 1980 deadline.

There was some discussion of a fiscal note on this bill and the hearing on the bill was closed.

CONSIDERATION OF SENATE BILL 104:

Senator Brown passed out copies of proposed amendments in connection with this bill, which is an act to revise and clarify the rulemaking authority of the Department of Social and Rehabilitation Services. He introduced Margaret Karr from the S.R.S., who gave an explanation of this bill.

Senator Brown moved adoption of the amendments. Senator Turnage questioned in section 2, if this was a broadening of the duties that they do now and Ms. Karr explained that we do not have this limitation in this particular section but it does refer back to the chapter and this makes it more clear. The motion carried unanimously.

Senator Brown moved that we further amend in Section 2 of the amendments on the last line after the word, "out", strike "the purposes of this chapter." and insert the words, "its responsibilities under this chapter." Motion carried unanimously.

DISPOSITION OF SENATE BILL 104:

Senator Brown moved that the bill do pass, as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 113:

Senator Turnage moved that this bill do not pass.

Senator Brown stated that we do not have sufficient research into this bill to know if this would even work.

Senator Towe stated that an execution should be done in a public square in a public city to be a deterrent to crime.

The motion carried unanimously.

CONSIDERATION OF SENATE BILL 165:

Senator Turnage explained this bill, which is an act to increase the provision setting a maximum value on vehicles for which title may be issued by right of survivorship. He explained that this would allow a person to not have to go to court to probate a car title.

Senator Turnage offered some amendments (see standing committee report) and they all passed unanimously.

DISPOSITION OF SENATE BILL 165:

Senator Van Valkenburg moved that the bill do pass, as amended. The motion passed unanimously.

CONSIDERATION OF SENATE BILL 129:

Joan Mayer, attorney for the Legislative Council, gave an explanation of this bill, which is an act to revise and clarify the laws relating to civil procedure.

Senator Turnage moved that where ever there is a subsection on a chapter, that the number of the subsection be eliminated. The motion carried unanimously.

Senator Towe moved that on page 4, line 4, the complete subsection (lines 3 through 8) be reinserted. The motion carried with Senator Van Valkenburg voting no.

Senator Turnage moved to reinsert on page 3, lines 7 through 11, all of subsection (3). The motion carried unanimously.

Senator Towe moved that on page 7, line 12, the reference to 4D(5) be reinserted in spite of our previous motion. The motion was passed with Senator Brown voting no.

Senator Turnage stated that some of these changes in these recodification bills are horrendous. He stated that maybe we should solicit the bar association to help us go over this bill and exclaimed that he hated to think of some of the recodification bills that are going through these halls and what effect they will have on the people of Montana if they are passed in their present form.

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Mr. J.C. Wengartner from the Montana State Bar Association said that he would be willing to go through this bill and see what problems he could see.

There being no further business, the meeting was adjourned.

Everett R. Lensink

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

Date 1/24/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)			
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

Amendments to Senate Bill No. 164

- 1. Title, line 8.
Following: "ANNOTATED;"
Insert: "TO PROVIDE PROCEDURES FOR THE ACCOMPLISHMENT OF RECODIFI-
CATION;"

- 2. Title, line 9.
Following: "MCA"
Strike: ".
Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

- 3. Page 2, line 20.
Following: "amendments"
Strike: ".
Insert: ";"

- 4. Page 2.
Following: line 20.
Insert: "(j) renumbering all ARM rules in the new three-part
numbering system;
(k) eliminating unnecessary information in the history of ARM
rules;
(l) reserving blocks of page numbers in ARM where growth has been
consistent in the past or future growth is anticipated;
(m) removing all repealed rules from ARM and listing on an "Old
to New" numbering table;
(n) providing the secretary of state with an "Old to New"
numbering table to be filed in front of each title;
(o) providing the secretary of state with a schedule of pros-
pective chapter numbers and prospective page numbers and indicating
the blocks of page numbers to be reserved in their title, for the
purpose of assisting the secretary of state in providing insertion
and removal of page instructions for replacement pages to subscri-
bers to ARM."

- 5. Page 2, line 24.
Following: "publication, and"
Strike: "file"
Insert: "refile"

- 6. Page 2, line 25.
Following: "state."
Strike: "Rules not refiled are invalid."

- 7. Page 2.
Following: line 25
Insert: "(2) The secretary of state may set a schedule requiring an
agency to recodify and refile its rules in chapter increments
and prescribing the number of recodified pages to be submitted by
each agency to the secretary of state at each scheduled date for
replacement pages during 1979;
(3) Each agency shall submit a schedule to the secretary of state
listing the chapter names, chapter numbers and pages in its title
that will be recodified and refiled to meet the requirements of
Section 2 (2). The validity of the rules that are not refiled
by the scheduled date is suspended on that date.

(4) Such suspended rules may be recodified and refiled with the secretary of state by the next scheduled replacement page date and, if so recodified and refiled, they become valid and effective on that date. If such suspended rules are not so recodified and refiled by that date, they are permanently invalid and may be revived only by fulfilling all requirements of the Montana Administrative Procedure Act relating to rulemaking in the same manner as new rules proposed for adoption."

8. Page 3, lines 4 and 5.

Following: "Title",

Strike: "together with replacement pages for that title."

9. Page 3, line 9.

Following: "change."

Strike: "A summary of"

10. Page 3, lines 10 and 11.

Strike: lines 10 and 11 in their entirety.

Insert: "The report must be made available by the secretary of state on request and at a fee set by Section 2-6-103 MCA."

11. Page 3, line 13.

Following: "date"

Insert: "of"

Following: "replacement"

Strike: "pages"

Insert: "page"

Following: "page"

Strike: "are distributed"

Insert: "issue."

12. Page 3, lines 18 through 21.

Following: "repealed."

Strike: "If necessary"

Strike: lines 19 through 21 in their entirety.

13. Page 3, line 24.

Following: "report,"

Insert: "to the administrative code committee,"

14. Page 4, line 3.

Insert: "Section 4. Effective date. This act is effective on passage and approval."

STANDING COMMITTEE REPORT

..... January 24, 1979

MR. **President:**

We, your committee on **Judiciary**

having had under consideration **Senate** Bill No. **133**

Respectfully report as follows: That **Senate** Bill No. **133**

DO NOT PASS

~~DO NOT PASS~~

J.A.

[Signature]
.....
Everett R. Lensink

Chairman.

STANDING COMMITTEE REPORT

January 24, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration Senate Bill No. 165

Respectfully report as follows: That Senate Bill No. 165

introduced bill, be amended as follows:

1. Page 4, line 5.

Following: Line 4.

Insert: "one or more"

2. Page 4, line 5.

Following: "more"

Strike: "a"

3. Page 4, lines 5 and 6.

Following: "vehicles"

Strike: "vehicle, trailer, semitrailer, or housetrailer"

Insert: "vehicles, trailers, semitrailers, or housetrailers"

4. Page 4, line 7.

Following: "exceeding"

Strike: "the"

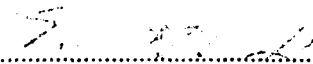
Insert: "a combined"

~~XXXXXX~~

And as so amended, DO PASS



STATE PUB. CO.
Helena, Mont.



Everett R. Lensink

Chairman.