

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
April 5, 1979

The sixty-eighth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink in room 331 of the capitol building on the above date at 11:00 a.m.

ROLL CALL:

All members were present with the exception of Senators Olson, Turnage, Anderson and Towe, who were excused.

CONSIDERATION OF HOUSE JOINT RESOLUTION 59:

This is a resolution requesting the assignment of an intermin study of sentencing in criminal cases. Representative Gould, District 98, Missoula, gave some background information concerning the decision to introduce this bill. He stated that he felt that if the trend towards mandatory sentencing continues, then we might go overboard with the mandatory sentencing and he stated that he felt it was important for the legislature to study the entire sentencing situation.

Senator Van Valkenburg said that one of the whereases says that uniformity in sentencing is a highly desirable goal; and he wondered why this is a highly desirable goal. Representative Gould said that if a 21-year-old, white male holds up a store in Broadus and a 21-year-old white male holds up a store in Libby, and if all circumstances are the same, one should not be given twenty years to life and the other a deferred sentence. Senator Van Valkenburg stated that he thought it makes some real problems when you say you are going to treat everyone the same; and this is not what the constitution says. Senator Lensink said that individual circumstances create a difference - for example, if it is the third time instead of the first time - that is a different situation. Representative Gould said that is different. He stated that he is talking about where everything is exactly the same and said that he did not have answers off the top of his head about what is the way to do this - better schooling for judges, better communications between judges, education - he said he had no answers.

Senator Brown questioned if he sees this study dealing with a study of mandatory sentencing in relation to prison population and how far we want this to go in this area.

Representative Gould stated that Dan Yardley has a resolution to study prison population, trends, etc. He stated that he felt the two resolutions could be combined or it could be the same committee doing both of these. He stated that the mood of people is much more conservation, people fed up with crime and he said that this has a little to do with the increases in prison population, but the most important thing is the age of the population of the state of Montana and the United States itself, the dangerous age is from 18 to 30 years of age. He said that by 1983, we will see quite a decrease in the prison population.

Representative Gould commented in connection with HB 608, concerning pushers of hard drugs, that their feelings are that that bill will have a negative impact on prison population and that we are going to find that it is much better to do their drug dealing in Idaho and Washington.

Senator Lensink asked if a study has been done on Montana; and Representative Gould said that he did not think so and said there was one in the process by the supreme court that has been going on for some time. Senator Van Valkenburg said that one deals solely with sentencing and a good portion of the reason that this is not completed is because of the turnover in the supreme court and some reluctance on the part of the new chief justice to crank it up and he said that he did not know what the status of the sentencing one is.

There were no further questions or comments and the hearing was closed.

DISPOSITION OF HOUSE JOINT RESOLUTION 59:

Senator Lensink said that he did not think this was a bad area to work in.

Senator Van Valkenburg moved that the bill be amended on page 1, line 17, following "Montana", strike "is" and insert "may be". He said that he thought when you say "is", this precludes the whole idea of a study. Senator O'Hara said then we have to send it back to the house and he did not think this was necessary. A vote was taken and it carried with Senators Lensink and Galt voting no.

Minutes - April 5, 1979
Senate Judiciary Committee
Page Three

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

RECONSIDERATION OF HB 519:

Senator Healy stated that this bill was tabled and he made a motion that this committee remove this bill from the table. (At this point, Senators Towe and Turnage came in.) Senator Turnage stated that this bill came out of Silver Bow County and the question is whether we want to give away a great deal of highway funds. He said that if you get a district court that might abuse these fees, it could be a big problem. A vote was taken and there were four yeses and four nos. (See roll call vote.)

DISPOSITION OF HOUSE BILL 775:

Senator Turnage said that he had a request from Representative Seifert.

Senator Van Valkenburg moved that the amendments be stripped from this bill. The motion carried unanimously.

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

There being no further business, the meeting was adjourned.

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

Date 4/5/79

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)			✓
Gall, Jack E. (R)	✓		
Tewe, Thomas E. (D)			✓
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

(468)

SENATE COMMITTEE JUDICIARY

Date _____ Bill No. 517 Time 11:32

NAME	YES	NO
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)	✓	
	4	4

Secretary _____ Chairman _____

Motion: To remove from table

(include enough information on motion--put with yellow copy of committee report.)

(Handwritten initials)

STANDING COMMITTEE REPORT

.....April 5..... 1979.....

MR. President.....

We, your committee on Judiciary.....

having had under consideration House Joint Resolution..... ~~Bill~~ No. 59.....

Gould (Van Valkenburg)

Respectfully report as follows: That House Joint Resolution..... ~~Bill~~ No. 59.....

third reading bill, be amended as follows:

1. Page 1, line 17.
Following: "Montana"
Strike: "is"
Insert: "may be"

And, as so amended,
BE CONCURRED IN
~~DO PASS.~~

STANDING COMMITTEE REPORT

..... April 5, 19 73

MR. Presidents:

We, your committee on Judiciary

having had under consideration House Bill No. 775

Selfert (Turnage)

Respectfully report as follows: That House Bill No. 775

Be concurred in.

~~DO PASS~~

Pl.