

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 14, 1981

Page 1.

The sixth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 10:

AN ACT TO CREATE A CORRECTIONS BOARD
OF VISITORS; AND PROVIDING CERTAIN
POWERS AND DUTIES.

This bill was introduced by Tom Towe upon request of the Interim Committee of Corrections Policy and Facility Needs because of a number of complaints made by prisoners. A board similar to that requested in this bill currently deals with mental health facilities, and it has been effective. While other agencies have been involved with checking these institutions, in each instance their function has been limited to one or two phases, or they have been responsible for only a few of the various institutions.

Jim Azzara, of Missoula District 96, who had been a member of the Interim Committee, stated that even under the rushed, inadequate circumstances of the review, all members of the committee became aware of the fact that there were valid complaints issuing from the prison. He felt that because of some of the conditions the state could be placed in a position of liability. Each member of the committee had felt that an investigative, on-going body should be instituted by the legislature.

Karen Mikota, of the League of Women Voters, spoke in favor of the bill.

Senator O'Hara inquired about cost of such a program, and was told that the board involved with the mentally disabled was allotted forty-one thousand dollars per year, up from a beginning figure of thirty-five thousand dollars.

The fact was established that this board would have authority only to report and recommend, not to make any changes by themselves.

Senator Halligan was concerned that perhaps the caseload would prove to be too much for a three-man board, but Senator Towe stated that he felt it important to keep a new administration and new costs to a minimum to facilitate passage of the bill.

Senator S. Brown questioned the Governor's appointing the board, then attaching it to a legislative agency. Senator Towe agreed that perhaps a legislative agency should appoint the board since they would be working with it.

Senator S. Brown then said that he was also concerned with the lack of language insisting on confidentiality required on the reports, at least until it had been established whether any of the claims were valid; and Senator Towe agreed that language of this sort should probably be added.

The possibility of placing additional staff on the existing investigative board rather than creating a new one was then discussed, as well as the benefits of possibly having an ex-inmate be one of the members of the board. Senator Anderson also suggested that if a higher per diem could be paid, perhaps it would encourage professional people to become board members.

Senator Tveit felt that the word "assure," appearing in Line 21 of Page 2, needed to be rephrased to imply less authority.

In closing, Senator Towe presented letters in support of this bill (marked Exhibits A through E, and attached to these minutes.)

CONSIDERATION OF SENATE BILL 89:

AN ACT TO REQUIRE THE ATTORNEY GENERAL
TO BRING AN ACTION TO DETERMINE THE
JURISDICTION OF THE STATE IN EACH
INSTANCE WHEN A FEDERAL ENTITY IS
INVOLVED WITH A FACILITY SITED IN
MONTANA AND AN APPLICATION FOR A
CERTIFICATE HAS NOT BEEN MADE.

Senator Manley, from District 14, Drummond, presented the bill, stating that it would insure that the federal government would be required to have the same certificate of environmental compatibility and public need before building a facility that a private company would have to have. This bill would specifically empower the Attorney General's office to challenge the federal government's right to infringe upon the rights of Montanans by condemning land for use as a transmission line corridor.

Steve Doherty, representing the Northern Plains Resource

Council, read from a sheet marked Exhibit F and attached to these minutes, in support of passage of this bill.

There were no opponents to the bill.

Senator S. Brown stated that unless there was some chance of winning the cases that would be filed as a result of passage of this bill, there would be little point in passing it.

Leo Barry, former Commissioner of State Lands, stated that the chances of winning are less than fifty-fifty, but that the state should take on the issue to perhaps prevent damaging precedent from being set.

Senator Mazurek raised the point that if the Attorney General forces a decision on jurisdiction by taking up such a case, and the case is lost, the state might be in the position of taking up losing battles in the future because of passage of this bill.

Senator S. Brown suggested that a more effective way to handle this matter than forcing a court battle might be to get concerned persons in on the bargaining and policy making prior to choosing such a corridor.

CONSIDERATION OF SENATE BILL 83:

AN ACT TO ESTABLISH THE CRIMINAL
OFFENSE OF FAILURE TO RETURN RENTED
OR LEASED PERSONAL PROPERTY; AND
ESTABLISHING A PENALTY THEREFOR.

Senator Mazurek presented the bill at the request of the Montana Rental Association. He stated that present law does not enforce action against defaulted rentals because the original possession of the property is authorized, although the potential exists under theft of services provisions. This bill would create a new criminal offense -- failure to return rental property.

J. C. Weingartner, representing the Montana Rental Association, stated that the reason for passage of the measure would be that at present county attorneys cannot prosecute this type of case.

Senator Crippen said that he recognized the problem, but was concerned about the lack of protection for a lessee who might be accused under this provision. The language in Paragraph 2, Line 20, Page 1, seems to place the burden of proof on the defendant, relative to current address. He also took issue with the fact that there is no provision for a fine in lieu of a sentence.

Senator Mazurek said that should the bill pass this committee those matters would be dealt with. He also pointed out that since a certified letter to the defendant, asking him to return the rented property, was required before any court action could be taken, the defendant would have plenty of time to remedy the problem before it went to court. He also said that the term "not current" identification could be replaced with "false," for purposes of clarification.

Ernie Jacques, from A-1 Rental, Helena, pointed out that the attempt is being made only to bring the equipment back, not to trick people into committing a crime.

The meeting was adjourned at 11:48 a.m.

A handwritten signature in cursive script, reading "Mike Anderson".

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/14/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: Don't know DATE: _____

ADDRESS: 1750 1st Avenue

PHONE: 1442-0944

REPRESENTING WHOM? Muse / F

APPEARING ON WHICH PROPOSAL: SB 59

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Karen Mikota DATE: 1/14/81

ADDRESS: 406 W. Ewing

PHONE: 443-6287

REPRESENTING WHOM? LWV of Montana

APPEARING ON WHICH PROPOSAL: S.B. 10

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

SB 10 Testimony: LWV of Montana KAREN Mikota

The League of Women Voters of Montana favor the creation of a corrections board of visitors. There is a need for review of inmate care. Currently, the correction's population includes mentally and developmentally disabled. The present system is not equipped to identify nor to meet the needs of such persons. Earlier investigations into prison problems have revealed difficulties in dealing with health care, i.e. medication, examination. In addition we have problems statewide with our decaying city and county jail facilities. If these situations are to be improved and effectively utilized, a review board would shed an objective light on the areas in question.

The corrections facilities house those we choose to consider last and least. However, it is our responsibility to insure these individuals humane and competent treatment. An objective review of these programs would benefit and inform the State as well as insure responsible action towards the inmates.

R. C. WENGER

145

Mr. A. Adams

2-250

Maurice Louis Stas

5. 8. 2

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Steve Doherty DATE: 1/14/81

ADDRESS: Box 858 Helena

PHONE: 4434965

REPRESENTING WHOM? Northern Plains Res. Council

APPEARING ON WHICH PROPOSAL: SB89

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: testimony attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NORTHERN PLAINS RESOURCE COUNCIL

Exhibit F

Main Office
419 Stapleton Bldg
Billings, Mt. 59101
(406) 248-1154

Field Office
P.O. Box 886
Glendive, Mt. 59330
(406) 365-2525

TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL ON SB 89
January 14, 1981 SENATE JUDICIARY COMMITTEE

I am testifying today on behalf of the North Boulder Protective Association, the Clark Fork Basin Protective Association, and the Northern Plains Resource Council. Northern Plains is an organization of farmers, ranchers, and other citizens from across Montana that has long been involved in the manner in which natural resource development affects agriculture. NoBPA and the Missoula based Clark Fork group are affiliates of NPRC.

We feel that this legislation is needed, now, in the instance of Montana 's attempts to gain a handhold on a renegade federal agency, the BPA, and for the future.

--For the present BPA transmission lines there are serious jurisdictional issues regarding the siting of lines through agricultural areas.

There is also a potential loss of tax revenue of \$4.5 Million annually.

--For the future we can look to a 1977 BPA study on the long range energy corridor requirements of the Pacific Northwest. That federal study projected over the next 7 to 42 years identified corridors to serve mine mouth plants in Eastern Montana and Wyoming. The BPA identified a generating capacity of up to 167,000 Megawatts (roughly 120 power plants the size of Colstrip units 3 & 4) with a potential low number of 7 energy corridors containing up to 42 double circuit 500 Kilovolt transmission lines.

Another example of creeping federalism is best found in the grandiose projections of the Carter synthetic fuels program. Montanans in 10 Southeastern counties were targeted in one DOE study for 36 synfuels plants over the next 10 years. These plants and the resulting population influx of 369,000 people would profoundly alter Montana. Water consumption would hover at a level four times the annual flow of the Little Bighorn River and would supply the domestic needs of

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Testimony of NPRC on SB 89
January 14, 1981

a city of 2 million (total water consumption equals 468,000 afy).

If the lurid fantasies of Federal bureaucrats weren't enough the Federally created Synthetic Fuels Corporation has been allocated \$20 Billion dollars to fund the new technology. In addition Congress in its mad rush to "do something" almost created an Energy Mobilization Board which would have run roughshod over Montana's laws that promote responsible development.

The upshot of all of this is that the potential for future conflicts with the Federal government is great and ever increasing. This conflict underscores the critical need for Montanans to maintain the strength and vitality of our Major Facility Siting Act. Our Siting Act is looked upon nationally as model legislation. It has undergone extensive revision and numerous amendments. It is our first and best defense against the threat of Federal takeovers. We trust that this Legislature will not weaken that defense. We also trust that the Legislature, if it sees fit to pass this proposal, will ensure adequate funds to carry out its implementation.

We recommend a "do pass."

Steve Doherty
NPRC Lobbyist

(6)

Exhibit A

Jan. 11, 1980

Senator Tom Towe
Montana State Senate
Helena, Montana

Dear Senator Towe,

Please accept this letter of strong support for your proposed legislation to create a board of visitors for the Montana State Prison. I really feel that more citizens in our state need to know what is going on in the prison and that a board of visitors would be one very important way to make that facility both more accountable to the outside world, as well as a much better facility in the long run.

I was able to visit the prison last Friday with other members of the Montana Criminal Justice Coalition and the Montana Association of Churches Task Force on Prison Relations and I was greatly disturbed by some of the things I learned first-hand from both inmates and staff members. The general attitude and staff morale of that place is very low. Probably one of the most discouraging things is the amount of men who literally have nothing to do but sit in their cells and/or walk the yard day after day after day. When we learned that the amount of money (\$17,000) that the staff requested for vocational programs for next year has already been cut by the budget bureau to \$3,000, we were sick. As you well know, the majority of men there will be returning to society and if that is nothing more than a holding pen, they will come out only as hardened and better criminals and cost the tax payers of our state so much more in the years ahead—not only in dollars, but in injustices as well.

You and other legislators, as well as the people of Montana, must know what is going on there—those are people, not animals, who are trying to pay their debt to society and if we allow them to do it alone with no self-help and vocational training skills except the ones that appear on reams and reams of paper, we are the ones who deserve to be behind the bars.

Thank you for your attention to this—please know there are many people out here in the ranks who support your efforts 100%!

Sincerely,

Sherry Lithander
931 Bonanza St.
Billings, Mt. 59101

(16)

Exhibit B

Tom Towle
Capital Station
Helena, MT 59601

1/12/81

Dear Tom:

Just a note to indicate my strong support for Bill # LC 53 to create a board of visitors. My recent visit to the State Prison at Deer Lodge has reinforced my feeling that a board of visitors could be a very positive force for improving conditions and attitudes for inmates and staff at the prison.

I will follow the progress of this bill with great interest, and I wish you the best of luck in your endeavor.

Sincerely,

Michael C. Campbell, CPA
1822 11th St. West
Billings, MT 59102

Jan. 12, 1981

Re: Visitor Committee at State Prison

Dear Mr. Towe;

Mrs. Sherrie Lithander, a member of our church, gave a report on her visit to the prison at Deer Lodge. She was quite distressed at the overcrowded conditions and the lack of rehabilitation facilities. Perhaps it is more accurate to say that the rehabilitation facilities are existing, but that there are no rehabilitation programs being implemented.

Mrs. Lithander mentioned that there is a bill pending to create a Visitor Committee or Council to act as a link between the public and the prison population.

I firmly believe that the primary function of prisons is to rehabilitate, not necessarily to punish. Therefore, I am very much in favor of legislation that would create such a citizens group.

Good luck in your efforts.

Sincerely,
Cecile A. Pearl

125 White
Billings, MT 59101

Exhibit D

710 Agate
Billings, MT 59101
January 12, 1981

Senator Thomas Towe
Capitol Station
Helena, MT 59601

Dear Senator Towe:

I support your efforts to establish a Board of Vistors for the Montana Prison System and also urge you to resist any legislative attempt to create a more punitive criminal justice system in our state.

Yours truly,



Steven H. Smith

Exhibit E

3001 38th Street West
Billings, MT 59102
January 11, 1981

Senator Tom Towe
Capitol Station
Helena, MT 59601

Dear Senator Towe:

I just want you to know that I am for a Board of Visitors
for the prison.

Best of luck!

Sincerely,

Louise Warner

Louise Warner

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