

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
MARCH 21, 1981

The forty-ninth 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.

Chairman Anderson directed the committee's attention to the letters he had placed on the table. These letters were from constituents, relative to various bills under consideration (attached Exhibits B through F).

DISPOSITION OF HOUSE BILL 162:

Senator Halligan moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 220:

A letter was submitted for the consideration (attached Exhibit A) which had been written by the Montana Retail Association, in support of the bill. Senator Mazurek moved that the bill BE CONCURRED IN, and his motion passed unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 689:

Senator Mazurek moved to amend page 3, line 4, by striking "shall" and inserting "may" following "held". David Niss pointed out several problems that would need to be addressed, and the committee asked him to proceed with further amending. Senator Mazurek withdrew his motion.

DISPOSITION OF HOUSE BILL 246:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 5:

Senator Mazurek moved to amend the bill on page 2, line 5, following "to" by striking "trial" and inserting "verdict". His motion passed unanimously. Senator S. Brown moved to amend page 1, line 20, by striking "or"; and to amend page 1 following "case" on line 22 by inserting "; or (d) make a recommendation or refrain from opposing the defendant's request

for immunity from prosecution in exchange for the defendant's testimony". His amendments passed unanimously. Senator Mazurek moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 300:

David Niss told the committee that similar legislation has been passed by many other states and upheld in federal court. Senator Brown moved that the bill be amended as discussed in previous meetings, and this motion passed unanimously. Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed over Senator Halligan's opposition.

DISPOSITION OF HOUSE BILL 773:

Senator S. Brown moved to amend the bill on page 2, line 12, by striking "or" and inserting "and"; on page 2, line 10, by striking "monthly" and inserting "quarterly". His amendments passed unanimously. Senator Olson moved that the bill be not concurred in. Senator Mazurek pointed out that this bill would make sure the guidelines were being followed. A tie vote caused the motion to fail. Senator S. Brown then moved the second amendment as shown on the attached Committee Report, and his motion passed unanimously. Senator Mazurek moved the first amendment shown on the attached Committee Report, and his motion passed unanimously. Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed over the objection of Senators Anderson, Olson, Berg, and Halligan.

DISPOSITION OF HOUSE BILL 678:

Senator Tveit moved that the bill BE CONCURRED IN, and his motion passed over Senator Anderson's objection.

DISPOSITION OF HOUSE BILL 612:

Senator O'Hara moved that the bill BE NOT CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 713:

Senator O'Hara moved that the bill BE CONCURRED IN, and his motion passed over the opposition of Senators Berg and Crippen.

DISPOSITION OF HOUSE BILL 698:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed over Senator Crippen's objection.

DISPOSITION OF HOUSE BILL 209:

Senator S. Brown moved that the bill be amended as shown on

the attached Committee Report, and his motion passed over Senator Mazurek's objection. Senator S. Brown moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed over the objection of Senator Olson.

DISPOSITION OF HOUSE BILL 138:

Senator S. Brown moved that the bill be tabled, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 824:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed unanimously.

TIE VOTE ON HOUSE BILL 758:

Senator Crippen moved that the bill be not concurred in, and his motion failed on a tie vote, with Senators O'Hara, Olson, Tveit, S. Brown and Berg voting against the motion.

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

Mike Anderson  
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 21, 1981

NAME	PRESENT	ABSENT	EXCUSED
<del>Anderson, Mike, Chr. (R)</del>	✓		
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.

DATE \_\_\_\_\_

COMMITTEE ON Judiciary BILL NO. WB 689

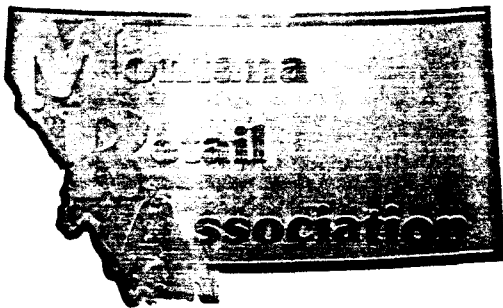
# VISITOR'S REGISTER

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(Please leave prepared statement with Secretary)

443

Executive Office  
P.O. Box 440  
34 West Sixth  
Helena, MT 59624  
Phone (406) 442-3388



SENATOR MIKE ANDERSON  
CHAIRMAN  
SENATE JUDICIARY COMMITTEE

House Bill 220

Mr. Chairman and members of the Committee. My name is Curtis B. Hansen. I am the Executive Vice President of the Montana Retail Association. I have been requested to present this testimony to you by the large food chain members of this association.

The Montana Retail Association is comprised of many small Montana Retailers and a few of the large chain stores. We do attempt to represent the interests of all members and do where there is no conflict of interest. In the case of House Bill 220 we find no conflict.

House Bill 220 provides no specific benefit to any of our members. However, It is supported by large and small members alike because it benefits the needy and helps to eliminate waste of a valuable resource.

We do support House Bill 220 as it has been transmitted to your Committee and presented by Representative Hal Harper, its sponsor.

As I am sure many of you are aware, within the food industry there are "pull dates" on many food items. "Pull dates" are designed and used to assure freshness and the best quality food products to the customers, and thereby food products are

removed from the shelves, no longer offered for sale and are destroyed. This is also often true when cans, packages or containers are soiled, dirty or disfigured in any way.

The bulk of these food products are still good, tasty, wholesome, nourishing and healthful. It is really a terrible waste for them to be destroyed when there are so many people from all segments of society that could benefit from their use, many of whom are now provided with necessary food through charitable contributions and/or tax dollars.


Such waste has become prevalent due to several factors; 1) The increased incidence of legal actions. 2) The lack of control over foodstuffs (care, storage, handling and sanitary conditions) after they are out of the care, custody, and control of the donor. 3) The inability to oversee the distribution and preparation of these products. 4) The tendency to name as many defendants as possible in legal actions (especially large business). and 5) The increased costs of defending legal actions whether groundless or not.

House Bill 220 would not grant any business a license to cast aside all care without any fear of consequences. It would, however, relieve them of criminal and civil liability for donated food "apparently fit for human consumption", unless an injury is caused by gross negligence or intentional misconduct.

The passage of House Bill 220 can not hurt or damage anyone. It can only help eliminate waste, provide the needy with food, save tax payers dollars and benefit all citizens of the State of Montana.

On behalf of all of our members, large and small, we wholeheartedly support House Bill 220 and urge your favorable actions, moving it to the Senate Floor with your unanimous "DO PASS" recommendation.

Thank You,



Curtis B. Hansen  
Executive Vice President

Senate Judiciary Committee

3/18/81

Exhibit B

Dear Sirs,

I urge a favorable recommendation for HB 300 dealing with the banning of head shops, selling of drug paraphernalia, and how-to-books relating to equipment and growing of marijuana etc.

I feel worried abt. of paraphernalia and related material may not suppress usage, but it will certainly make it more difficult for the really young children to begin experimenting - even alot of teenage users are "lazy" and their usage would be curtailed, if equipment wasn't so easily available.

Please vote for making headshops and related equipment unlawful.

Mrs. Bm Messert  
Great Falls, Mont.



Charles J. Heringer, Jr.  
OIL AND GAS PRODUCER

P O BOX 486

422 HART ALBIN BUILDING

BILLINGS MONTANA 59103

14061 252-6821



HERINGER ENERGY RESOURCES CO

March 18, 1981

Senator Mike Anderson, Chairman  
Judiciary Committee  
State Capitol  
Helena, Montana 59601

Dear Senator Anderson:

I have been an independent oil and gas landman, operator and producer in Montana for 29 years.


I have purchased mineral interests in 800 ranches in Montana during my tenure in Montana.

I wish to advise that I am very much opposed to HB 758 introduced by Rousch et al because it gives another person, perhaps a long way removed from the title chain when the minerals were severed, a confiscating opportunity.

I do not think that that is the way a U.S. citizen should be treated.

I will appreciate you killing this bill.

Very truly yours,

  
Charles J. Heringer, Jr.

cc: Senator Jesse O'Hara  
Senator Bruce Crippen

Exhibit D  
 10/10/1977  
 10/10/1977

Exhibit D

Exhibit D

Exhibit D

Exhibit D

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Exhibit D

DENNIS ROY

OLIVE MT 59343



Mailgram



4-0009" & 077 03/18/81 ICS IPMBNGZ CSP HELB  
4065543429 MGM TDBN NORTH BOADUS MT 103 03-18 0122A EST

*Exhibit E*

SENATOR MIKE ANDERSON  
SENATE JUDICIARY COMMITTEE  
STATE CAPITAL  
HELENA MT 59601

WE SUPPORT AND WOULD LIKE TO SEE HB 703, THE JOINT CHILD CUSTODY LAW,  
APPROVED IN YOUR COMMITTEE. WE BELIEVE IT WILL BENEFIT CHILDREN,  
ALLOW THEM ACCESS TO BOTH PARENTS AND REMOVE SOME UNFAIR  
DISCRIMINATION FROM DIVORCES.

DOUG AND JANICE HOOPER  
LEON AND SHIELA PACK  
JUDSON AND JUANITA FLOWER  
WILLHAM AND JULIE KRUTZFELDT  
VOYNE AND KASEN MITCHELL  
REX AND RUTH KARTCHNER  
ROBERT AND ROBIN MARQUIS  
DENNIS AND BARBARA ROY  
LOREN AND BESSIE HARBAUGH  
GARY AND BEVERLY GREEN  
ARLAN AND TERRY HRUBES  
GEORGE AND MARIA BRYAN  
CHARLES AND VERA CARTER  
DOUG AND JOAN GASKILL

0124 EST

MGMCOMP MGM

Dear Sir,

J. Paul Brown

We registered our support  
for S.B. 703, to allow joint  
custody of children in divorce  
cases.

Although we are happily  
married with 4 children, and plan  
to stay that way, we think  
of many children who would  
benefit if this bill were  
enacted.

Thank you,

Mr. &amp; Mrs. John W. Roberts, Jr.

# STANDING COMMITTEE REPORT

March 21, 19 81

MR. **PRESIDENT:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **678**

**BURNETT (TVEIT)**

Respectfully report as follows: That **HOUSE** Bill No. **678**

~~DO NOT~~  
~~DO PASS~~

BE CONCURRED IN

*B.A.*

# STANDING COMMITTEE REPORT

March 21, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 824

KEYSER (CRIPPEN)

Respectfully report as follows: That HOUSE Bill No. 324

~~DO NOT~~

BE CONCURRED IN

*GA*

# STANDING COMMITTEE REPORT

March 21, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 698  
MEYER (RYAN)

Respectfully report as follows: That HOUSE Bill No. 698

DO PASS  
BE CONCURRED IN

# STANDING COMMITTEE REPORT

March 21, 1981

MR. ~~PRESIDENT~~:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 713

FABREGA (ANDERSON)

Respectfully report as follows: That HOUSE Bill No. 713

~~DO PASS~~

BE CONCURRED IN

Pa.

# STANDING COMMITTEE REPORT

March 21, 19 31

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 162  
GOULD (CRIPPEN)

Respectfully report as follows: That HOUSE Bill No. 162

DO PASS  
BE CONCURRED IN

PA

# STANDING COMMITTEE REPORT

MARCH 21, 1901

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 246

**YAROLEY (S. BROWN)**

Respectfully report as follows: That HOUSE Bill No. 246

DO: PASS  
BE CONCURRED IN

*ga*

# STANDING COMMITTEE REPORT

March 21, 19 81

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 220

**HARPER (MAZUREK)**

Respectfully report as follows: That HOUSE Bill No. 220

DO PASS:  
BE CONCURRED IN

# STANDING COMMITTEE REPORT

March 21, 1911

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 612

Respectfully report as follows: That HOUSE Bill No. 612

~~DO PASS~~  
BE NOT CONCURRED IN

# STANDING COMMITTEE REPORT

March 21, 1951

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 209

KEEDY (CRIPPEN)

Respectfully report as follows: That HOUSE Bill No. 209  
third reading copy, be amended as follows:

1. Page 2, line 2.

Following: line 2

Insert: "or"

2. Page 2, lines 3 through 5.

Strike: subsection (b) in its entirety

And, as so amended,

DO PASS

BE CONCURRED IN

g.a.

# STANDING COMMITTEE REPORT

March 21, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 773

KEDDY (O'HARA)

Respectfully report as follows: That HOUSE Bill No. 773,

third reading copy, be amended as follows:

1. Page 1, following line 14.

Insert: "(b) whether the conviction was by verdict or plea;"

Renumber: subsequent subsections

2. Page 2, line 6.

Following: "case"

Insert: "by attaching an extract of that portion of the judgment setting forth the basis for the sentence"

3. Page 2, line 10.

Following: "a"

Strike: "monthly"

Insert: "quarterly"

4. Page 2, line 12.

Following: "(1)"

Strike: "or"

Insert: "and"

~~DO PASS~~

And, as so amended,

BE CONCURRED IN

P.A.

# STANDING COMMITTEE REPORT

March 21, 1981

MR. PRESIDENT;

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 5  
YARDLEY (VAN VALKENBURG)

Respectfully report as follows: That HOUSE Bill No. 5,  
third reading copy, be amended as follows:

1. Page 1, line 20.

Following: ";"

Strike: "or"

2. Page 1, line 22.

Following: "case"

Insert: "; or

(d) make a recommendation or refrain from opposing the defendant's  
request for immunity from prosecution in exchange for the defendant's  
testimony"

3. Page 1, line 23.

Following: "(2)"

Insert: "IN THE DISTRICT COURT"

4. Page 2, line 5.

Following: "TO"

Strike: "TRIAL"

Insert: "VERDICT"

DO PASS

continued

March 21, 1961

5. Page 4, line 6.

Following: "proceedings."

Strike: "A"

Insert: "In the district court a"

And, as so amended,  
HE CONCURRED IN

# STANDING COMMITTEE REPORT

March 21, 1961

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 300

MATSAO (S. BROWN)

Respectfully report as follows: That HOUSE Bill No. 300

third reading copy, be amended as follows:

1. Page 3, lines 2 through 4.

Strike: subsection (k) in its entirety

Re-number: subsequent subsections

2. Page 3, line 7.

Following: "nashish,"

Strike: "or"

Following: "nashish oil"

Insert: ", or other dangerous drug as defined by 50-320101"

And/Cas so amended,

~~DO PASS~~

BE CONCURRED IN

SENATE COMMITTEE JUDICIARY

Date March 21, 1981 House Bill No. 758 Time 12:15

NAME	YES	NO
Anderson, Mike	✓	
O'Hara, Jesse A.		✓
Olson, S. A.		✓
Brown, Bob	✓	
Crippen, Bruce D.	✓	
Tveit, Larry J.		✓
Brown, Steve		✓
Berg, Harry K.		✓
Mazurek, Joseph P.	✓	
Halligan, Michael	✓	

Robin Campbell  
Secretary

\_\_\_\_\_  
Chairman

Motion: Be Not Considered

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