

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 26, 1987

The fourteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 26, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 137: Senator Cecil Weeding of Jordan introduced SB 137, which imposes an additional charge to support the law enforcement academy on each person convicted of a criminal offense or a speeding ticket. He said the fine will increase \$10 for a criminal offense and an increase of \$5 for speeding. He stated the academy has two sources of money right now: Motor Vehicle Fund and tuition for the academy. He said this bill has nothing to do with the location of the academy. He handed out an amendment to the committee (see Exhibit 1). He said the amendment would waive the tuition requirement for participants who are officers right now. He explained every section of the bill. He pointed out that section three gives the academy the power to acquire and operate buildings and property belonging to the academy. He said section 5 will create a fund for this money that will be collected. He said page 2, line 2 will exempt parking tickets from this bill.

PROPONENTS: Gary Fjelstad, Joint Commission on the Academy, introduced several people who accompanied him to the hearing in support of the bill: Frank DiFonzo, Montana Chief of Police in Sidney, Montana; Colonel Landon, Highway Patrol; Les Osborne, Montana Sheriffs and Peace Officers Association; Curt Petty, Lewis and Clark Sheriff's Department; Bill Westfall, Montana Law Enforcement Academy; Pat Driscoll, Attorney General's Office. He handed out a penalty assessment summary on the bill to the committee (see Exhibit 2).

Colonel Landon, Highway Patrol, supported the bill. He wanted all criminal justice training people involved, such as the justice of the peace. He said penalty assessment is not new to the state. He commented on how the department copied Idaho with the penalty assessment summary.

Bob Coppea, Bozeman Chamber of Commerce, supported the bill (see Exhibit 3, written testimony).

Tom Harrison, Sheriffs and Peace Officers Association, stated the major concern is not where the academy is but having a quality academy and this bill will provide a more quality academy.

Pat Driscoll, Attorney General, said he supported the bill.

Curt Petty, Deputy of Sheriff of Lewis and Clark County, supported the bill.

Frank DiFonzo, Chief of Police of Sidney, Montana, testified in support of the bill. He said the officers need a uniformed training program and this bill will help. He felt the state should do this for the citizens of the state. He said one argument is the program will increase enforcement. He said right now training is a luxury in this state right now and the men need training.

Bill Westfall, Montana Law Enforcement Academy, commented the Montana State officer does not have the luxury many other state police officers have. He said the officer in this state has to do many jobs other states' cops don't have to do. He said the training facilities are spread all over the state, which puts a strain on the budget.

OPPONENTS: Jim Haynes, Montana Magistrates Association, opposed the bill. He said the concept of the bill is fine, but it is the mechanics of the bill. He said right now the Magistrate's Office is a bookkeeping office for the fines. Mr. Haynes said the Magistrate's office have a bill that would change the nature of their job from bookkeepers to people who collect fines. He said the Magistrates don't want to track \$10 from every ticket that is given.

Bernard McCarthy, Montana Magistrates Association, opposed the bill (see Witness Sheet).

Don Ingels, Montana Chamber of Commerce, opposed the bill.

DISCUSSION ON SB 137: Senator Pinsoneault asked how many people do we send to the FBI school. Les Osborne answered not very many get to go; Curt Petty has been on the list for four years. Senator Pinsoneault asked what the cost to the state is when they do send a person to this school. Les Osborne said the FBI picks up the cost.

Senator Crippen inquired what percentage of the amount of revenue would be generated from speeding tickets. Colonel Landon replied \$600,000 would be collected. Senator Crippen asked what percentage of all violations will come from speeding tickets. He said he wanted to know who would get the burden of paying for the training of the officers. Colonel Landon replied 68 percent would come from traffic violations.

Senator Beck questioned what the effective date was on this bill. Senator Weeding said it will be effective October 1, 1987.

Senator Crippen inquired if Senator Weeding really wanted to have over

40 percent of the traffic violation, speeding tickets, paying for this bill. Senator Weeding responded that it was his intent.

Senator Blaylock asked if it bothers anyone of the officers to fine people this high fine for simple traffic violations. Gary Fjelstad answered he had no hard feelings doing this. Senator Blaylock felt this bill is not fining people for what they have done wrong, but it is more of a tax collection process. He felt it was unfair. Mr. Fjelstad did not agree because one simple violation is as serious as any other violation.

Senator Halligan questioned if this might start other groups to ask for something similar. Senator Weeding answered that could happen. Senator Halligan asked if anyone had looked at where fine money was being divided; into different areas. He said if someone can see that a fine isn't being used properly in a certain department, couldn't we just redistribute that money to this program, instead of increasing fines. Senator Weeding said he thought that was a good idea, but it will be tough to figure out what group was not using their fine money like they should be.

Senator Crippen felt if the bill increased the \$5 ticket to \$25, which would raise the revenue for this program up to 1.2 million, it would be more fair. He said 30 percent of the fines are allocated toward non-moving violations, where you can really get the criminals.

Senator Mazurek asked if this bill's failure will definitely effect the training of the officers right now. Frank DiFonzo replied that it will, because it is a luxury to be trained well. He would like to see that the officers entering the academy would not have to pay. He said his officers will not be able to go to the academy because of the user fee the police departments have to pay. He said it doesn't bother him to fine violators.

Senator Pinsoneault asked how many 55 mph speeding ticket violations were given in 1986. Colonel Landon aswered 74,000 were given. He said the drivers education division gets 25 percent, the crime victims program gets 18 percent, the county gets the remaining 56 percent.

Senator Crippen asked how many of the 74,000 speeding tickets are 65 mph and under. Colonel Landon said a ticket is hardly ever written if a person is going under 65 mph.

Senator Weeding closed by talking about Representative Ray Peck's bill, which raises the speeding fine to \$15. He felt the bill will help the taxpayer because it is a violators fine and not a tax on every tax-paying citizen to make sure police officers are properly trained.

CONSIDERATION ON SB 134: Senator Tom Beck of Senate District #24 introduced SB 134, which makes the crime of conveying a dangerous drug to a person subject to official detention a felony punishable by a prison term not

to exceed 10 years. He said drugs are being smuggled into the Montana State Prison. He said the bill will have an effective impact on the smuggling of contraband into the prison.

PROPOSERS: Kurt Chisholm, Department of Institutions, said that two years ago the State passed a law making a felony out of a charge of smuggling a weapon into the prison. He said this bill is along the same line. He said the problem is people who are trying to smuggle drugs into the prison know how much they can smuggle, such as less than 60 grams of marijuana, without getting caught for a felony. He explained that possession of less than 60 grams of marijuana is just a misdemeanor.

Hank Risley, Montana State Prison, said they have been investigating drug trafficking at the prison and found the prison doesn't have a problem with hard drugs, but has a problem with drugs like marijuana.

Ted Mizner, Powell County Prosecutor, stated it is very hard to try these people because they know the amount of drugs and the kind of drugs they can get into the prison without having a felony on their record if they are caught.

OPPOSERS: None

DISCUSSION OF SB 134: Senator Mazurek asked how many cases on smuggling of contraband into the prison are tried every year. Mr. Mizner said about one or two a year because the rest are mostly misdemeanors and the prosecutors don't want to deal with them. Mr. Risley said around three or four a year is a minimum.

Senator Beck closed on the bill.

ACTION ON SB 134: Senator Pineseault moved SB 134 DO PASS. The motion carried.

The committee adjourned the hearings and proceeded with executive action.

ACTION ON SB 58: Senator Pineseault thought the bill made a lot of sense, because it was not a mandatory procedure and the jury has a definite damage amount to deal with. Senator Mazurek questioned if the bill made it clear the plaintiff has to prove damages. Senator Pineseault said that the judges that he talked to said they would certainly use the procedure if they have a chance to. Senator Halligan asked if a damages trial has no jury and wanted to have this procedure, do they have to involve a jury then. Senator Pineseault said yes. Senator Pineseault moved the bill DO PASS. The motion carried (ROLL CALL VOTE).

ACTION ON SB 33: SB 33 was referred back to the committee. Senator Brown moved to TABLE the bill. The motion carried.

ACTION ON SB 144: Senator Crippen said the Clerk and Recorders wanted the committee to hold this bill until that House Bill surfaced, but so far there has been no House Bill in relation to this bill. Senator Beck said the filings have to stay at the local level for the people of the area to have access. Senator Galt commented many people don't even record their liens. Senator Halligan felt the penalties for not filing should be the same at the local level and the state level. Senator Bishop moved the bill DO PASS. Senator Mazurek felt most people file in both places because it does give notice to everyone. Senator Beck asked where one goes to place notice on a lien for livestock. Senator Galt said the Secretary of State's Office. The motion carried unanimously.

ACTION ON SB 137: Senator Crippen moved to amend the bill to say that any speeding ticket over 65 mph is a \$20 fine, and any speeding ticket under 65 mph is a \$5 fine. Senator Blaylock felt the committee should wait on the bill until Representative Peck's bill is brought forward. Senator Pinsoneault thought the 55 mph fine was not a smart move. He said people are paying traffic fines on monthly installments right now; how are they going to pay these fines if the fines increase. Senator Pinsoneault made a substitute motion to lay the bill on the TABLE. The motion carried. Senator Crippen withdrew his motion.

The committee adjourned at 11:50 a.m.


Chairman

DATE

Jan. 26

COMMITTEE ON

Senate Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bernard F. McCarthy	MT. Magistrate's Assoc	HB 137		X
Tom Harrison	Sheriffs + Peace Off. Assoc	H 137	✓	
Carl Petty	MT. Sheriffs Assoc of Assn	H 137	✓	
Les Osborne	MT. Sheriffs + Peace Off. Assn	H 137	✓	
CHET CHRISTENSEN	DET. INST. 502	SB 137	✓	
Gary Fjeldstad	Joint Comm. on Academy	SB 137	✓	
FRANK DIFONZO	MONT. CHIEF'S OF POLICE	"	✓	
MIKE LAVIN	Bd. of Crime Control	"	✓	
Bob Coppa	Bozeman Chamber of Com.	HB 137	✓	
Don Snyler	Mont. Chamber of Commerce			X
Bill Westfall	Mont Law Inst Head	SB 137	✓	
Hank Risley	Mont State Prison	SB 137	✓	
Ted Mizner	Powell Co Prosecutor	SB 137	✓	
James A. Styring	Mont. Mag Assn	SB 137		X

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 4/27/87

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X ?		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

AMENDMENTS TO SB 137, INTRODUCED COPY

1. Title, line 10

Following: "appropriations;"
Insert: | "providing that no tuition may be
charged for any Montana law enforcement
officer attending the law enforcement
academy."

2. Page 9

Following: line 13
Insert: "NEW SECTION. Section 6.
44-10-304. NO TUITION CHARGED FOR
MONTANA LAW ENFORCEMENT OFFICERS.
No tuition may be charged for any
Montana law enforcement officer."

3. Renumber: subsequent sections.

PENALTY ASSESSMENT

Penalty assessment, a surcharge on fines and forfeitures, is a funding source for law enforcement training which places the cost of such training on those people who create the need and use the system most often. Law abiding citizens would be relieved of the burden of funding the much needed training by assessing the violator.

Passage of this act would remove the Academy from Motor Vehicle Account funding, which would free up \$500,000 or more annually from that account for other uses.

The \$10 charge added to each fine or forfeiture will generate approximately \$1,100,000 annually. Revenue to local governments will not be reduced, since this is a charge which must be levied in addition to any fine.

This method of funding law enforcement training is currently in effect in twenty-three (23) states. The neighboring states of Idaho, Washington, Oregon, Utah and South Dakota all have forms of penalty assessment funding for law enforcement training. Various states utilize a flat rate, as proposed here. Other states are funded by a percentage of fines collected - (ex: Washington, 30-35%) or a percentage surcharge - (Arizona, 37%). This system has been in effect in some states since the late 1960's. The majority of states which have penalty assessment, adopted it in the late 1970's and early 1980's.

Various arguments have been used to defeat such legislation. Among these have been: "Officers would issue more citations" - this has not proven to be the case in those states which have adopted such laws; "Courts would encounter administrative problems in collecting funds" - 2% of the monies collected could possibly remain with the courts as an administrative fee; and there have been arguments from various special interest groups. The majority of states which have examined penalty assessment as a source of alternative funding for law enforcement training have adopted it and found it to be an effective means of providing training funds that are always difficult to find, especially during lean economic years. During economic declines, crime rates invariably increase. Penalty assessment, which is tied directly to the rate of crime, would provide funds for training when they are most needed but usually difficult to obtain.

Penalty assessment is supported by the Montana Sheriffs and Peace Officers Association, the Montana Association of Chiefs of Police, The Montana Police Protective Association and others. It is an alternative funding source which addresses law enforcement training needs by assessing those who create the need.

Testimony SB 137 Hearing 10 AM Room 325

1. MR. Chairman, members of the Committee, for the Record I am Bob Correa, representing the BAEC!
2. We support SB 137 and encourage a do pass recommendation!
3. As many of you know the debate about the MLEA has been around for many years, my involvement goes back to 1976. In recent years the debate has gotten hot as to where the academy should be located and pork barrel Politics seems to dominate the future of Law Enforcement Training in this State - The debate always ends up with the cost and finances required rather than the needs and importance of training!
4. We feel that SB 137 indicates the proper leadership in Law Enforcement to design a mechanism to self fund Law Enforcement needs thru a penalty assessment system!
5. Penalty Assessment ~~program~~ legislation in the past seems to meet with several objections - However, ~~it~~ there are other similar programs in the State, such as the Fish & Game which have worked well - Why ~~it~~ not give law abiding citizens a break and let those individuals breaking the law pay for

the Training of our Law enforcement officers!

6. SB137, does not interfere with current penalty dollars allocated to local government. This bill will not hurt any existing programs.

7. ~~It~~ SB137 will support existing ^{local} law enforcement programs, and will begin a pool of money collected from the unlawful citizens to help train quality law enforcement personnel to protect ~~to~~ the law abiding citizens!

8. The needs of law enforcement training are growing - we best be aware that crime is growing and will continue to do so in Montana - The State budget is in trouble - Law Enforcement officers are our friends and are there to protect us and we want the best trained people we can get for our own security and well being!

9. We need to leave Politics out of Law Enforcement Training and ~~also~~ establish a protected funding mechanism to properly support law enforcement training - allow Law enforcement to do what they are here for - Protect the law abiding citizens -

~~We~~ We encourage your support for law enforcement training by a do pass vote on SB 137

Thank You

NAME: DEBORAH E. McCLARY DATE: 1/26/97

ADDRESS: 1400 N. STARK COUNTY
300 PEBBLEHOLE WATERLOO, IA

PHONE: 443-1017

REPRESENTING WHOM? MONTAIGNA MAGISTRATES ASSOCIATION

APPEARING ON WHICH PROPOSAL: HB 137

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

- COMMENTS: oppose the bill on philosophical reasons
- we oppose members of the judiciary being judicial officers for other agencies
 - we think the bill is poorly written
 - we believe the legislative committee took keeping local rules
 - we do not oppose funding the academy but feel there is better methods of doing it
 - for our judicial distribution bill will alter method of distributing money which could adversely affect this bill
 - this bill creates an additional \$100 charge to the \$5 dollar fee deposit

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

- revenue to local government isn't realized but workload is increased because we do all the work with none of the benefits.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date Jan. 26 1987 Bill No. SB 58 Time _____

NAME	YES	NO
Senator Joe Mazurek, Chairman	X	
Senator Bruce Crippen, Vice Chairman	X	
*Senator Tom Beck	X	
Senator Al Bishop	X	
Senator Chet Blaylock	X	
Senator Bob Brown	X	
Senator Jack Galt	X	
Senator Mike Halligan	X	
Senator Dick Pinsonneault	X	
Senator Bill Yellowtail		X

Mary Y Huber
Secretary

Chairman

Motion: to DO PASS SB 58 out of committee

STANDING COMMITTEE REPORT

January 26

19⁵⁷

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration..... SENATE BILL No. 58

first reading copy (white)
color

Jury to pick one of proposed awards of parties in civil actions.

Respectfully report as follows: That..... SENATE BILL No. 58

DO PASS

~~DO NOT PASS~~

.....
Chairman.

STANDING COMMITTEE REPORT

January 26

19 87

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

having had under consideration

SENATE BILL

No. 114

first reading copy (white)
color

Require notice filing of title 71 agricultural liens with secretary of state.

Respectfully report as follows: That

Senate Bill

No. 114

DO PASS

~~DO NOT PASS~~

Chairman.

STANDING COMMITTEE REPORT

January 26

19 87

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration **SENATE BILL** No. **134**

first reading copy (white)
color

Conveying a dangerous drug to a prisoner; sentence.

Respectfully report as follows: That **SENATE BILL** No. **134**

DO PASS

~~DO NOT PASS~~

.....
Chairman.