

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Dick Pinsoneault, on January 28, 1991,  
at 10:00 a.m.

**ROLL CALL**

**Members Present:**

Dick Pinsoneault, Chairman (D)  
Bill Yellowtail, Vice Chairman (D)  
Bruce Crippen (R)  
Steve Doherty (D)  
Lorents Grosfield (R)  
Mike Halligan (D)  
John Harp (R)  
Joseph Mazurek (D)  
David Rye (R)  
Paul Svrcek (D)  
Thomas Towe (D)

**Members Excused:** Robert Brown (R)

**Staff Present:** Valencia Lane (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion  
are paraphrased and condensed.

**Announcements/Discussion:** Chairman Pinsoneault announced that he  
would have folders prepared for committee members concerning  
judicial confirmations and Supreme Court nominations. He  
advised the Committee they must sift through this information,  
and that a confirmation luncheon would also be forthcoming.

Senator Mazurek told the committee the rules require public  
hearings on appointments. Senator Towe said he believes the public  
should be given the opportunity to speak on judicial appointments  
if they wish. Chairman Pinsoneault agreed.

**EXECUTIVE ACTION ON SENATE BILL 140**

**Motion:**

**Discussion:**

Senator Halligan stated that SB 140 does not contain normal misdemeanor language, and asked if the language should be changed to "for more than \$500". Senator Mazurek added that the language normally says "or", "and/or". John Connor, Department of Justice, reported that the language in the bill was taken from California law.

Amendments, Discussion, and Votes:

Senator Halligan made a motion that Valencia Lane change this language to normal misdemeanor "or" imprisonment "or both", on page 2, lines 7 and 8. The motion carried unanimously. (Exhibit #1)

Chairman Pinsoneault held further action to address SB 125.

Recommendation and Vote:

EXECUTIVE ACTION ON SENATE BILL 125

Motion:

Senator Towe explained the amendments drafted by Valencia Lane (Exhibit #2), and said the model act encompasses the same concept. Senator Towe made a motion that the amendments be approved.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

The motion made by Senator Towe to amend SB 125 carried unanimously.

Senator Towe referred to the American Bar Association's task force on consumer financial services model, and said he believes SB 125 is better than this model.

Chairman Pinsoneault commented that a handshake attitude can result in trouble.

Senator Svrcek said he believes the bill could have a chilling effect on business, if people must wait to reduce an agreement to writing each time. He added that he believes it is good policy to have agreements in writing.

Senator Crippen asked about Lochenmeier, and if the banks were saying, "it looks great, but we need to put it in writing". Bill Leary, Montana Bankers Association, replied that it would seem so.

Recommendation and Vote:

No further action was taken on SB 125 at this time.

EXECUTIVE ACTION ON SENATE BILL 140

Motion:

Discussion:

Dr. John McMahon, a Helena physician, appeared before the Committee to answer questions concerning steroid drugs.

Chairman Pinsonneault asked what the side effects of steroids were. Dr. McMahon replied that some known side effects are, acne, cancer, liver tumors, cholesterol, clitoral enlargement in females, death, fluid retention, fetal damage, erection in males, decrease in high-density lipids, hirsutism, heart disease, jaundice, hepatitis, penis enlargement, prostrate enlargement, sterility, testicular atrophy, and yellowing of eyes and skin. He explained that other side effects include stomach pain, aggressive and combative behavior, black tarry stools, breasts developing in males, severe depression, frequent urination in males, gall stones, hyper-calcemia, high blood pressure, impotence, and injury to muscle and ligaments requiring lengthy recovery.

Dr. McMahon stated that rupture of the achilles tendon is very common in football now. He said blood poisoning can be contracted from injecting steroids, and there may be unusual bleeding in females.

Chairman Pinsonneault commented on testimony of a concerned parent wherein he stated that a student's urine turned black. Dr. McMahon replied that, until three years ago, the medical profession was saying steroids didn't help and, as a result, lost much credibility. He explained that steroids can't make more muscle, but they do enlarge muscle and cause muscle to retain fluid. He said muscle is one long cell, whereas the liver can regenerate cells indefinitely. Dr. McMahon added that a highly-motivated individual can do as well with sound nutrition, self-discipline and training, instead of using steroids.

Dr. McMahon cited an instance of one young Helena man who went from 125 pounds to 180 pounds in one summer, to meet a fall weight request from a college. He said Montana produces four or five world-class athletes per year at most, and that he believes the bill will help put some things in perspective. He stated that each year there are high school deaths from cancer and cardia problems related to steroids.

D. McMahon told the Committee 20 steroids are listed in the Physician's Desk Reference (PDR), and about 80 steroids are available on the black market. He said there are legitimate reasons to use steroids, such as rare insufficient pituitary glandular production.

Senator Mazurek asked if the bill would affect legitimate use. Dr. McMahon replied it would not.

Chairman Pineseault asked if steroids are addictive. Dr. McMahon replied that withdrawal can generate depression and water/weight loss in tissue. He explained this induces some users to go back to steroids, and said they are not like narcotics.

Senator Harp asked when and how students buy steroids. Dr. McMahon replied he would be surprised if a college or high school athlete couldn't get steroids in ten minutes. He added that some get placebos, but in California most suppliers are people of a mind-set, believing this is something wonderful. Dr. McMahon told the Committee steroids were used by Nazis for elite troops in World War II.

Senator Towe asked if the steroids listed in the bill were not prescription substances. Dr. McMahon replied there are eight commercially available anabolic steroids, and legitimate use is limited by non-renewable prescriptions.

Senator Grosfield asked if these drugs affect the livestock industry. Chairman Pineseault said he believed the Committee should check this.

There was no further discussion of SB 140, nor further executive action at this time.

Amendments, Discussion, and Votes:

Recommendation and Vote:

EXECUTIVE ACTION ON SENATE BILL 125

Motion:

Senator Svrcek made a motion that SB 125 be TABLED AS AMENDED.

Discussion:

Senator Halligan stated that unless this is confined to the area of commercial credit there could be problems. He said he would like to encourage bankers to come back with more information.

Senator Towe commented that it would be made clear that one particular credit item would not affect others. He added that he does believe there is merit in getting the word out, "get it in writing".

**Amendments, Discussion, and Votes:**

The motion to table SB 125 as amended failed in a roll call vote, 6-6 (attached).

Senator Towe made a motion that the Committee further amend the bill on page 3, line 5, inserting "involved in the particular agreement sought to be enforced", and that \$10,000 on line 7, be changed to \$50,000 (Exhibit #3).

**Recommendation and Vote:**

Senator Towe's motion to amend SB 125 carried unanimously.

Senator Svrcek asked about notices in banks as suggested by a Trial Lawyers Association amendment. Senator Mazurek replied that nobody cares about the notices or benefits from these signs.

Senator Halligan asked what would happen if the original contract were not in writing.

Senator Towe made a motion that SB 125 DO PASS AS AMENDED. The motion carried 7-5 in a roll call vote (attached).

**EXECUTIVE ACTION ON SENATE BILL 140**

**Motion:**

**Discussion:**

John Connor, Department of Justice, told the Committee it is against the law to dispense tetracycline, but it can be purchased from any veterinarian supply place.

Senator Mazurek referred to subsection 7, and said 50-32-101, MCA, includes physicians and veterinarians. He stated the Committee may need to insert "with a prescription" after "ultimate users".

Senator Towe stated he didn't like to provide a simplistic answer, as it would limit cattle people who do their own veterinary work.

Senator Grosfield commented that the law says veterinary drugs cannot be used for human consumption.

John Connor suggested that the language in the bill be left as it is, and said he suspects it will not be a problem.

Amendments, Discussion, and Votes:

Recommendation and Vote:

Senator Mazurek made a motion that SB 140 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 11

Motion:

Discussion:

Senator Mazurek said statute provides lifetime preference for veterans. He commented that no one uses scored procedures, so it is almost harmless.

Chairman Pinsoneault reminded the Committee that labor testified there had been no problems.

Amendments, Discussion, and Votes:

Recommendation and Vote:

Senator Halligan made a motion that HB 11 BE CONCURRED IN. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 113

Motion:

Senator Halligan made a motion that SB 113 be TABLED.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

Recommendation and Vote:

The motion made by Senator Halligan carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 113

Motion:

Discussion:

Senator Halligan said he agreed that the House amendments should be removed from the bill.

Amendments, Discussion, and Votes:

Senator Halligan made a motion to strike "significant or substantial" on page 2, line 4. He explained that the language is already clear and straightforward. The motion carried unanimously (Exhibit #4).

Recommendation and Vote:

Senator Halligan made a motion that HB 113 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 51Discussion:

Valencia Lane explained that the amendments were drafted by the Department of Institutions at the request of Senator Towe. Senator Towe said he did not know if Senator VanValkenburg had approved the amendments (Exhibit #5).

Senator Mazurek advised the Committee a law was passed last year to allow the state to appeal if a judge acts outside compliance of the law.

Senator Crippen asked why the district attorneys didn't give an explanation of the changes made in the bill. Chairman Pinsoneault replied he believes the bill was given substantial scrutiny, but that was not to say there would be no problems.

Senator Halligan stated he did the bill request last session. Senator Mazurek replied the bill was introduced last session by Senator VanValkenburg and passed the Senate, but Professor Larry Elison said he needed more time to look at the bill.

Chairman Pinsoneault asked Senator Towe to present any other amendments on January 31, 1991.

Chairman Pinsoneault said SB 58 is critical legislation, and asked Senator Yellowtail to report to the Committee on Wednesday, January 30, 1991.

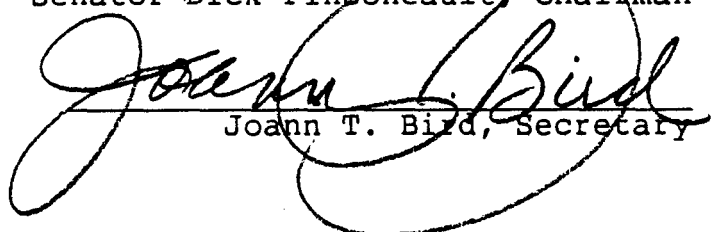
Recommendation and Vote:

No recommendation or vote was made.

ADJOURNMENT

Adjournment At: 11:30 a.m.

  
\_\_\_\_\_  
Senator Dick Pinsoneault, Chairman

  
\_\_\_\_\_  
Joann T. Bird, Secretary

DP/jtb



ROLL CALL

SENATE JUDICIARY COMMITTEE

~~52nd~~ LEGISLATIVE SESSION -- 1999

Date: 28 Jan 91

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NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	7		
Sen. Yellowtail	7		
Sen. Brown	7		
Sen. Crippen	7		
Sen. Doherty			
Sen. Grosfield	7		
Sen. Halligan	7		
Sen. Harp	7		
Sen. Mazurek	7		
Sen. Rye	7		
Sen. Svrcek	7		
Sen. Towe	7		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 28, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 125 (first reading copy -- white), respectfully report that Senate Bill No. 125 be amended and as so amended do pass:

1. Page 2, line 20.

Following: the first "the"

Strike: "creditor and the debtor"

Insert: "party against whom the agreement is sought to be enforced"


2. Page 3, line 7.

Following: "credit"

Insert: "involved in the particular agreement sought to be enforced"

Strike: "\$10,000"

Insert: "\$50,000"

Signed:   
Richard Pinsoneault, Chairman

*Handwritten:* 1-28-91  
Ad. Coord.

*Handwritten:* SR 1-28 2:45  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 28, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 140 (first reading copy -- white), respectfully report that Senate Bill No. 140 be amended and as so amended do pass:

1. Page 2, line 7.  
Following: "\$500"  
Strike: "and"  
Insert: "or"

2. Page 2, line 8.  
Following: "months"  
Insert: ", or both"

Signed:   
Richard Pinsonneault, Chairman

1991 1-24-91  
Amd. Coord.

SR 1-28 2:45  
Sec. of Senate


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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 28, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 11 (third reading copy -- blue), respectfully report that House Bill No. 11 be concurred in.

Signed:   
Richard Pinsoneault, Chairman

JAL 1-28-91  
Asst. Coord.  
SP 1-28 2:45  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 28, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 113 (third reading copy -- blue), respectfully report that House Bill No. 113 be amended and as so amended be concurred in:

1. Page 2, line 4.

Strike: "SIGNIFICANT OR SUBSTANTIAL"

Signed: \_\_\_\_\_  
Richard Pinsoneault, Chairman

RB 1/28/91  
Amd. Coord.

SR 1/28 2:45  
Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE

JUDICIARY

Date 28 Jan 91

<sup>SB</sup>  
Bill No. 125

Time 11:00 am

NAME	YES	NO
Sen. Brown		✓
Sen. Crippen	✓	
Sen. Doherty	✓	
Sen. Grosfield		✓
Sen. Halligan	✓	
Sen. Harp	✓	
Sen. Mazurek		✓
Sen. Rye		✓
Sen. Svrcek	✓	
Sen. Towe		✓
Sen. Yellowtail	✓	
Sen. Pinsonneault		✓
	6	6

Jody Bird  
Secretary

Sen. Dick Pinsonneault  
Chairman

Motion: Tabled. Svrcek - Table as Amended

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 28 Jan Bill No. <sup>JB</sup> 125 Time 11:05

NAME	YES	NO
Sen. Brown	✓	
Sen. Crippen	✓	
Sen. Doherty		✓
Sen. Grosfield	✓	
Sen. Halligan		✓
Sen. Harp		✓
Sen. Mazurek	✓	
Sen. Rye	✓	
Sen. Svrcek		✓
Sen. Towe	✓	
Sen. Yellowtail		✓
Sen. Pinsonneault	✓	
	7	5

Jody Bird  
Secretary

Sen. Dick Pinsonneault  
Chairman

Motion: Vote on DPAA

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ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 29 Jan Bill No. 140 Time 11:15am

NAME	YES	NO
Sen. Brown	/	
Sen. Crippen	/	
Sen. Doherty	/	
Sen. Grosfield	/	
Sen. Halligan	/	
Sen. Harp	/	
Sen. Mazurek	/	
Sen. Rye	/	
Sen. Svrcek	/	
Sen. Towe	/	<del>X</del>
Sen. Yellowtail	/	
Sen. Pineseault	/	

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Jody Bird  
Secretary

Sen. Dick Pineseault  
Chairman

Motion: © Mazurek - DPAA

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Amendments to Senate Bill No. 140  
First Reading Copy (White)

For the Committee on Judiciary

Prepared by Valencia Lane  
January 28, 1991

1. Page 2, line 7.  
Following: "\$500"  
Strike: "and"  
Insert: "or"

2. Page 2, line 8.  
Following: "months"  
Insert: ", or both"

EXHIBIT  
SB 125

Amendments to Senate Bill No. 125  
White Reading Copy

Requested by Senator Towe  
For the Committee on Judiciary

Prepared by Valencia Lane  
January 23, 1991

1. Page 2, line 20.  
Following: the first "the"  
Strike: "creditor and the debtor"  
Insert: "party against whom the agreement is sought to be  
enforced"

Amendments to Senate Bill No. 125  
First Reading Copy (White)

For the Committee on Judiciary

Prepared by Valencia Lane  
January 28, 1991

1. Page 2, line 20.

Following: the first "the"

Strike: "creditor and the debtor"

Insert: "party against whom the agreement is sought to be  
enforced"

2. Page 3, line 7.

Following: "credit"

Insert: "involved in the particular agreement sought to be  
enforced"

Strike: "\$10,000"

Insert: "\$50,000"

Amendments to House Bill No. 113  
Third Reading Copy (Blue)

For the Committee on Judiciary

Prepared by Valencia Lane  
January 28, 1991

1. Page 2, line 4.

Strike: "SIGNIFICANT OR SUBSTANTIAL"

Amendments to Senate Bill No. 51  
White Reading Copy

Requested by Dept of Institutions (Towe)  
For the Committee on Judiciary

Prepared by Valencia Lane  
January 21, 1991

1. Page 148, line 15.

Strike: "A"

Insert: "Either the director or a"

2. Page 148, line 18.

Following: "that+"

Insert: ":"

3. Page 148, line 19.

Following: "{a}"

Insert: "(a)"

4. Page 148, lines 19 and 20.

Following: "a"

Strike: "has been cured of the"

Insert: "no longer suffers from a"

Following: "+"

Insert: ";"

5. Page 148, line 21.

Following: line 20

Insert: "(b) the defendant's mental disease or defect no longer renders him unable to appreciate the criminality of his conduct or to conform his conduct to the requirements of law; or

(c) the defendant suffers from a mental disease or defect that makes him a danger to himself or others, but either there is no treatment available for his mental disease or defect or he refuses to cooperate with treatment"

6. Page 149, line 4.

Following: "{4}"

Insert: "(4)"

1-28-91  
53140

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 28 day of JAN, 1991.

Name: JOHN W McMAHON M.D.

Address: 400 SADDLE DRIVE  
HELENA

Telephone Number: 442-0099

Representing whom?  
Montana Medical Assoc.

Appearing on which proposal?  
Senate Bill 140

Do you: Support?  Amend?  Oppose?

Comments:  
\_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

