

Approved 6-27-90
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

3:20 ~~xxx~~/p.m. on March 19, 1990 in room 527-S of the Capitol.

All members were present except: Senators Feleciano, Kerr and Rock, who were excused.

Committee staff present:

Mike Heim, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Charles Henson, Kansas Bankers Association

The Chairman called the meeting to order and stated the committee would continue discussion of the drug enforcement and prevention bills. The Committee actions of the morning meeting were reviewed. Staff presented a review of the structure and operations of the Finance Council.

SB 685 - concerning controlled substances; relating to forfeitures of property.

SB 702 - concerning crimes and punishments; relating to fines, dispositions and forfeitures; creating the Kansas bureau of investigation special asset forfeiture fund and the Kansas highway patrol special asset forfeiture fund.

HB 3039 - concerning controlled substances; relating to the forfeiture of property.

The Chairman stated that in addressing SB 685 and SB 702, it is important to question whether innocent third parties are being hurt, either before the crimes are committed or after.

Charles Henson, Kansas Bankers Association, testified with concerns on SB 685. He stated that two different questions arise in this bill: to make sure the order of forfeiture recognizes the rights of pre-existing vested liens and other interest holders; and the policy question of when interest acquired through forfeitures should relate back.

Mr. Hensen suggested that to clarify pre-existing lien holders rights will remain after forfeiture, subsection (e) on page 3 be amended to read "All right, title and interest in property vested in the law enforcement agency by the final order of forfeiture shall relate back to the commission of the act giving rise to forfeiture". He felt this language would remove any doubt whether the interest acquired through forfeiture is subject to pre-existing liens. He did not address the policy question.

Senator Bond moved to adopt amending language to SB 685 and SB 702 as proposed by Mr. Henson. Senator Gaines seconded the motion. The motion carried.

Senator Bond moved to conceptually amend HB 3039 to add language that would follow the amendatory language of SB 685 and SB 702. Senator Gaines seconded the motion. The motion carried.

Senator Gaines moved to amend HB 3039 by adding the forfeiture provisions of SB 702; (these include page 3, lines 14 - 15; page 4, lines 33 - 41; page 6, lines 35 - 39; and the the single special forfeiture fund with authority to the legislature and finance council). Senator Moran seconded the motion. The motion carried.

Senator Gaines moved to amend SB 702 by striking everything after page 1. Senator Moran seconded the motion. The motion carried.

Senator Morris moved to recommend SB 685 adversely as it had been incorporated into HB 3039. Senator Gaines seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 527-S, Statehouse, at 3:20 ~~am~~/p.m. on March 19, 1990.

Senator Morris moved to report SB 683 adversely as its contents had been incorporated into HB 3039. Senator Moran seconded the motion. The motion carried.

Senator Bond moved to recommend HB 3039 favorable for passage as amended. Senator Gaines seconded the motion. The motion carried.

After amendments, SB 702 is limited to fines relating to drug related cases only.

Sentor Moran moved to recommend SB 702 favorable for passage as amended. Senator Gaines seconded the motion. The motion carried.

SB 704 - concerning crimes and punishment; relating to classification of penalties; sentencing.

Senator Bond moved to recommend SB 704 favorable for passage. Senator Gaines seconded the motion. The committee was reminded that requests were recieved from conferees to amend SB 704 to include crimes committed in other states.

The motion and second to recommend SB 704 favorable were withdrawn by Senators Bond and Gaines respectively.

Senator Yost moved to conceptually amend SB 704 to make clear that the bill applies to other similar federal and state convictions as well. Senator Bond seconded the motion. The motion carried.

Senator Bond moved to recommend SB 704 favorable for passage as amended. Senator Gaines seconded the motion. The motion carried.

SB 706 - concerning the uniform controlled substances act; relating to definition of sell.

Senator Moran moved to recommend SB 706 favorable for passage. Senator Yost seconded the motion. The motion carried.

SB 707 - concerning the uniform controlled substances act; creating a separate offense for unlawful manufacture of controlled substances.

Senator Martin moved to strike "new section" 1 and 2 from SB 707. Senator Petty seconded the motion. The motion carried.

Senator Martin moved to recommend SB 707 favorable for passage as amended. Senator Petty seconded the motion. The motion carried.

SB 709 - concerning crimes and punishments; relating to conspiracy.

Senator Moran moved to recommend SB 709 favorable for passage. Senator Morris seconded the motion. The motion failed.

SB 710 - concerning crimes and punishments; relating to murder in the first degree.

Senator Bond moved to recommend SB 710 favorable for passage. Senator Morris seconded the motion. The motion carried.

SB 703 - concerning criminal procedures; relating to diversion agreements; when prohibited.

SB 705 - concerning crimes and punishment; relating to the use of firearms in drug offenses.

SB 708 - concerning criminal procedure; relating to preliminary examinations.

Senator Bond moved to recommend SB 703, SB 705, SB 707 new sections 1 and 2, SB 708 and SB 709 for an interim study. Senator Petty seconded the motion. The motion carried.

The meeting was adjourned.

