

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1270

2001 HOUSE JUDICIARY

HB 1270

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1270

House Judiciary Committee

Conference Committee

Hearing Date 2-06-01

Tape Number	Side A	Side B	Meter #
1	xx		1--end
1		xx	1--1578
Committee Clerk Signature <i>Joan D. ...</i>			

Minutes: Chair DeKrey opened the joint hearing on HB1270 with the House and Senate in the Brynhild Haugland Room; to provide for an interstate compact for adult offender supervision and to provide an expiration date.

Sen Traynor called meeting to order and senate clerk did roll call for senate committee.

Chair DeKrey : The reason I requested a joint hearing is this particular bill is because I wanted someone from CSG here today to help. He had to fly to Bismarck and we'd save on the expense of a second trip.

Rep. DeKrey, Dist. 14 : here as prime sponsor and support HB1270. Under current law, we have a interstate compact for adult supervision that has been in place since 1937. States get together with other states and do interstate compacts on many things. The Dept. of Transportation has quite a few of them. There has been a movement nation wide to update the adult offender supervision compact. Various groups got together and came up with the bill that is before you. The compacts have to be identical state wide and passed in all the states. The

states want to keep it a state level and have their own self determination. The states will administer it themselves and keep it out of the realm of the federal government. That is the purpose of passing this bill. Rep. Warner and Rep. Koppelman attended a conference in Chicago last summer where it was brought up to them. Sen. Lyson and myself went to a conference this fall where we talked about it. We visited with other people in the legislature and department of corrections and decided we would bring the compact forward and let you decide. Part of the problem with the old one is in 1937 we did not have the types of crime that we have now. We did not have the number of convicts then like we have now. Today, they think there may be 250,000 prisoners looking for facilities. Some problems have arisen with the old compact for places of supervision. Some states have been ignoring the compact. The old compact can be amended, we felt that a new compact from scratch would be better. The first 35 states who pass it will write the rules for the compact. We thought ND should be at the table when the rules are written. The cost right now is \$3,000 to start up. The dues for the compact will be \$18,000 a year.

Rep. Klemin : If we adopt this, there is no repealer in here.

Rep. DeKrey : That's correct. Some states that have passed the compact have deviated from the language a bit. Once you join this compact, there are certain rights that we have in the state are will be turned over to the administration of the compact. We felt it was important to limit ND's liability by putting language in there that would be limited to the amount the legislature would appropriate to. I stuck the sunset clause on it. If we pass this we will be one of the 35 states, but if we don't like it the sunset clause will kick in. There will be a period of time when there will be two compacts for a time. As states come on board we will use the new compact with these.

Sen. Nelson : (806) I'm a bit confused because in section 1, article 4 and 12 seem to be the only ones that apply to ND. The rest seem to be setting down in statute rules for how the interstate compact will run. Yet, you say you will develop rules once the 35 states join. Seems to me the rules are already in all of these articles. Confusing. If we endorse these verbatim, it doesn't give you much latitude anywhere else to change the wording. It's written in stone.

Rep. Kim Koppelman, Dist. 13 : support this bill. I do see the need for the existing compact to be improved. The states need to get together and do something and set some standards.

Rep. John Warner, Dist. 4 : (1040) here in support of HB1270. It's important to sit at the table with other states and be an equal player.

Richard Masters, general council for Council of States Government : This is a mechanism that is not new. Article 1, section 10, of our federal constitution provides specifically for states to enter into compacts. ND is a member of 16 different compacts including this one. Nine states have adopted the revised compact. 15 states, including ND, that are introducing this legislation. We think 14 additional states will be introducing this legislation, also. You will want to be at the table when the rules are written. Under the existing compact, enforcement is just about impossible. There is also no enforcement procedure or provision for enforcement in the existing compact. There are states that are not complying with this compact to the extent necessary. There have been extensive changes to the legal landscape since 1937. In 1937 there was no administrative procedure. Now we set out procedure. This is the machinery which will be in place to make the rules. There was no accountability in the existing compact. We need to bring this compact into the 20th Century in terms on privacy laws and open meeting laws. The existing says nothing about these issues. This new compact will provide for more accountability

and better supervision for offenders going from state to state. Need to keep track where those people are.

Rep. Klemin : You said that one remedy the new compact would do is addressing that some states do not comply. How would this change? Why would those states want to be a part of this compact?

Mr. Masters : The provisions would say that the 35 states who adopt this will be the only ones sending offenders to each other. The states not adopting will not be included. Some states have repealed the language on the effectiveness of the 35 states adopting. If you think there is a concern, you may want to keep a relationship with the other 15 states. They would not be able to send offenders to you under the new language. You would have problems arising if you did not repeal the old compact.

Sen. Traynor : In your Colorado example, what was deficient in the old compact that did not bring about the enforcement?

Mr. Masters : Maryland officials did not register this offender and report this offender's presence to Colorado authorities. Both states were members of this compact. This new compact provides some sanctions for a state who doesn't comply. Generally, it was ignorance as noncompliance. In article 9 and article 12 are where the sanctions are set forth.

Sen. Watne : (2580) At the present time, does a state have the right to refuse acceptance of a parolee or probation person.

Mr. Masters : Technically, no, but there is no meaningful way to force the issue with states that say no. No meaningful tool to enforce.

Rep. Klemin : (2744) This bill contains language limiting liability, as stated by Rep. DeKrey. Do you know where that is in this bill?

Sen. Trenbeath : On page 8, it seems to deal with it. Subsection 4 a.

Rep. Delmore : How will the board be commissioned and how many will be on it?

Mr. Masters : All 50 states are eligible. The commission will be 50 states plus the territory and will act as the administrative body.

Sen. Traynor : Looking at the liability section on page 9, will the commission take out a bond to finance?

Mr. Masters : That's primarily an insurance protection right there.

Sen. Nelson : (3383) In article 4, as pertains to ND, Ms. Little would be the state's commissioner to the commission, and she would also be the chairman of ND state council; and the governor would appoint three and the chief justice, president of the senate, and the speaker of the house would be the others.

Mr. Masters : Yes. All three branches are represented.

Warren Emmer, Director for Department of Corrections : (3700) here to give general information so we are neutral. **(SEE ATTACHED)**

Rep. Kretschmar : (5156) Is there an interstate commission under the new compact?

Warren : Yes, there is one in existence.

Rep. Klemin : Under the fiscal part, this doesn't become effective until the 35th state adopts. When do you pay the dues? Is there resistance by other states on this compact?

Warren : Good question. To the second question, we have found that the resistance has come because they did not ask for our input and information that lessens the confusion. The ones that attended our meetings, are on board.

Sen. Traynor : (5606) The new commission may develop a new data base. Are we set up for this in ND?

Warren : It is very easy to tie into what you already have.

Sen. Trayner : You seem to be lukewarm for HB1270. Do you think it exposes ND to any further liability then the present compact?

Warren : Risk management people are better able to answer that question. Might want to ask Attorney General Office.

Sen. Dever : (5833) I think one of the questions we may have is does this justify the increase in dues we will have to pay for this new compact. On page 1, items 5,6, and 8. Would this be a difference in the new compact that might justify?

Warren : Those are clearly good things.

Rep. Mahoney : Could the current compact be fixed?

Warren : Yes, but think of 1937 as an old car. Do you think it needs lots of work?

End Tape 1, slide A. Begin Tape 1, slide B.

Rep. Disrud : (150) Why has this not been looked at since 1937? Seems like a long time.

Warren : We've all been very cavalier with interstate compact matter for many years as a nation. We have delegated as a nation a lot of the duties to those who weren't in the best position to really consider the best interests of the state. Seems until there is a big problem, nothing is done. Public safety seemed to be a driving force.

Rep. Klemin : With regard to the state council, is it necessary to the bill or can we do it the way we do it now?

Warren : You have to adopt it with, but it can be advisory only.

Charles Placek, Dept of Corrections, Field Services : I was asked to explain the fiscal note.

(SEE ATTACHED SPREADSHEET) If passed, it will become law somewhere in the fall of

2001. The bill does not provide compensation for the members appointed by the governor. There may be an amendment dealing with that.

Rep. Klemin : (690) When do we have to pay the dues?

Charles : Sometime in the fall of 2001. I assume shortly after that.

Rep. Klemin : I noticed that most of the ND probationers going out of the state and of them coming in are SD, MN, and MT. Where do those states fit in with the new compact?

Charles : (805) As of 2/2/01, MN has not introduced any legislation. MT has passed the bill in the senate. SD has introduced legislation and it's in the senate right now.

Rep. Kretschmar : Our dues are \$18,000 annually. Do you see as time goes by that the interstate commission may have to raise dues for states?

Charles : I believe the Council of State Government came up with that figure. Your guess is as good as mine as to whether that will increase.

Rep. Klemin : What is the reason for having a separate state council in the state to advise the compact administration?

Mr. Masters : (1055) One of the difficulties was implementation of this compact. The state council was a way to institutionalize something within the new compact where there will be an incentive for that to happen. If you have the three branches represented, that will give visibility to improve the procedure.

Rep. Klemin : To what extent, if we adopt this without the state council, will this preclude us from being a member of the new compact?

Mr. Masters : I think it is a material provision. Most states have made the state council an advisory body.

Sen. Traynor : I'd like to ask Kent Sorenson a question. Do you see any greater liability under HB1270 then the existing compact?

Kent Sorenson, General Council to the Dept. Of Corrections : No, I do not. Article 10, section 5 limits our liability. This is the Oregon language. On page 8, article 6, subsection 4.a.

Sen. Lyson : Don't you think we have some liability as a county to bring the probationers back rather than a state obligation?

Kent : I suppose there is a potential.

Rep. DeKrey : I think Sen. Lyson had a rather unique resolve to that problem. With the bond, I think that is an issue we may want to push when we are at the table. Any further testimony on HB1270. Hearing is closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1270a

House Judiciary Committee

Conference Committee

Hearing Date 02-07-01

Tape Number	Side A	Side B	Meter #
TAPE 1		x	973 to 1489
Committee Clerk Signature <i>John Deere</i>			

Minutes: Chairman DeKrey we will take up HB 1270. This is the bill that we heard yesterday in a joint hearing with the Senate. I will need a motion on this bill

COMMITTEE ACTION

Rep Delmore moved a DO PASS motion on HB 1270 and to be referred to Appropriations. Rep Brekke seconded the motion.

DISCUSSION

The clerk will call the roll on a DO PASS and be referred to Appropriations.

The motion passed with 12YES, 0 NO, 3 ABSENT. Carrier Chairman DeKrey.

FISCAL NOTE
 Requested by Legislative Council
 03/22/2001

Bill/Resolution No.:

Amendment to: HB 1270

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures	\$2,400		\$40,313		\$40,313	
Appropriations	\$2,400		\$36,313		\$36,313	

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The amendment to HB 1270 does not significantly change the fiscal impact of the bill.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The estimated expenditure amount reflects an increase in operating expenses to cover the travel and compensation of the newly created State Council and to fund the increase in dues from \$2,000 to \$18,000 per year.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The Executive Budget includes funding for the current \$4,000 biennial dues expenses.
