

requiring a mandatory sentence. I'd like to ask Senator Abboud a question before I continue. Senator Abboud, who actually drafted the language of this bill?

SENATOR ABOUD: I did.

SENATOR CHAMBERS: All right. Did you have the assist...any assistance from anybody, I mean from the Douglas County Attorney's Office or any of those who actually participated in supplying the wording?

SENATOR ABOUD: Bill drafting.

SENATOR CHAMBERS: Thank you. Members of the Legislature, before I go into an analysis of the language, I wish you'd look at page 2 of the bill and look at the current law with reference to punishments. In line 20, a Class II felony carries a maximum 50-year sentence, minimum one-year sentence. These two new felony categories are higher grade felonies and the only thing they do is require a higher minimum sentence. Currently, under the law as it is now, without continuing to divide and subdivide and make it appear we're doing something, the means to inflict a sentence harsher than that that the one is being offered now in the bill exists. The statutes already permit that and putting the word "mandatory" in front of the sentences on line 18 and line 15 don't do anything. When a mandatory sentence and a minimum sentence are provided by statute the minimum cannot be less than what the statute says, but it can be any amount over that so long as it doesn't come too close to the maximum, and I'm not going to go into all that because it would lose the point of what I'm trying to say. The point I want to make here is that the sentencing power exists right now under a Class II felony which is a lower grade felony than these two to impose a sentence of up to 50 years. And if you look at the existing language in the bill, the existing law, for example, on page 4, you will see in line 14 that violation of certain of the drug schedules is a Class II felony. The present law would put a judge in a position to give up to a 50-year sentence. If the judge gave just a flat 50 then it would be one-third of that up to the maximum, if no minimum is given. What I would like you to consider is that the word "mandatory" does not achieve anything. It is surplusage that means nothing. The way you require a minimum sentence is to just write what the minimum is. The good time laws will come into play and the minimum sentence, if that is imposed, will be this number of years less the months