

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on January 21, 1993,
at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)

Members Excused: Sen. Tveit

Members Absent: None.

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

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

Committee Business Summary:

Hearing: SB 143, SJR 12, SB 154, HB 20
Executive Action: HB 20

HEARING ON HB 20

Opening Statement by Sponsor:

Rep. Menahan explained HB 20 would abolish the Capital Building Planning Committee and reassign its functions to the Montana Historical Society and require the Legislative Council to consult with the Historical Society on the Placement of artwork in the Capitol building.

Proponents' Testimony:

Debra Fulton, Administrator of the General Services Division, Department of Administration said the department supports HB 20

for two reasons. 1) It's a viable mechanism for the department to communicate with the Legislature on changes that need to be made in the capitol building. 2) The bill assigns responsibility for the preservation and protection of the art in the Capitol Building. Current statute does not assign responsibility for the art in the Capitol building and it has fallen to the Department of Administration. The Department of Administration does not know a lot about historic preservation. The department has a report from a historian that the art does need some maintenance at this time. Having the General Services Division be responsible for the artwork in the building has resulted in some duplication of effort. The Russell mural was damaged a couple of years ago and the department had to contact the insurance company and file a claim. The historical society had to get preservationists to come from California to repair the mural. The preservationist sent the department a report and the department didn't know it was a bill so didn't pay it. The preservationist called the Historical Society and the Historical Society called the Department of Administration. It seems to make more sense to turn that function over to the Historical Society. There needs to be an active committee for communication regarding the Capitol building. The department believes the mission and expertise of the Historical Society should be put to work in preserving the artwork. The Department of Administration urges support of HB 20.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. McClernan asked Ms. Fulton what the Historical Society thought about this proposal. Ms. Fulton said they support this bill.

Closing by Sponsor:

Rep. Menahan said HB 20 was a housekeeping bill and he appreciates the support.

Sen. Vaughn asked if Sen. Lynch was carrying this bill in the Senate. Rep. Menahan said that Sen. Lynch would.

HEARING ON SJR 12

Opening Statement by Sponsor:

Sen. Brown, Senate District #2, explained SJR 12 would rename the Department of Labor and Industry building the "Walt Sullivan Building." Walt Sullivan was an employee of the Department of

Labor and Industry for 17 years. At the time of his death he was a field representative for the Audit Bureau in the department. In 1989, he was murdered while on the job performing his duty to citizens of Montana and the Department of Labor and Industry. The murder has never been solved.

Proponents' Testimony:

Tom Schneider represented the Montana Public Employees Association and spoke in favor of SJR 12. Walt Sullivan was a member of the association. There is still an outstanding reward in Shelby on this case and they feel this is a fitting thing to do. Sen. Gage has signed as co-sponsor and he feels this is appropriate. The employees of the department actually had a hand in writing this bill. MPEA wants to be on record supporting SJR 12.

Sue Mohr read a written statement (EXHIBIT #1). Ms. Mohr operates a non-profit organization and is a former employee of the Department of Labor and Industry. She was a friend of Walt Sullivan. She said Mr. Sullivan called himself a field representative instead of an auditor because he felt that people had bad feelings about "auditors." They considered themselves representatives of the Department of Labor and representatives of employers. Mr. Sullivan had gone to Shelby to work with some employers one of whom was a retail employer who was attempting to call all of his employees "independent contractors." Mr. Sullivan was distraught about trying to do something about that. He visited with the employer who said some of his records were at his ranch. Mr. Sullivan went out to get the records with the employer and was never seen alive again, nor were the records. This case has been unsolved. To this day, Walt's widow takes time off from her job and calls the crime lab or the FBI or calls the local sheriff's office up there to find out in anything has been done with the case. This situation needs to be dealt with in some way so that people can begin to heal from it and this bill is one way to address that.

Mike Knecht testified as an individual in support of SJR 12. He worked with Walt as a fellow field representative in the Great Falls office. Mr. Sullivan was a modest man but principled and a very dedicated state employee. He went out of his way to help the state and help individuals. He was a friend and he would offer service to anyone. Mr. Knecht feels it is fitting to put his name on a building.

Roy Mulvaney is an employee of the Department of Labor and Industry and testified as an individual. Mr. Mulvaney spoke highly of Mr. Sullivan and urged passage of SJR 12.

Sandy Bay, Bureau Chief in the Contributions Bureau of the Unemployment Insurance Division in the Department of Labor and Industry, gave written testimony (EXHIBIT #2).

Bob Mullin, Deputy Director of the Department of Labor and Industry spoke in favor of SJR 12. He spoke on behalf of the employees of the Department of Labor and Industry and urged support of SJR 12.

Harold Kansier, former Administrator of Unemployment Insurance said Mr. Sullivan was a good friend and a good worker. He endorses other testimony and urges passage of SJR 12.

Mildred Dawson, Havre Job Service Employer Committee, sent in writtent testimony (EXHIBIT #3).

James Zadra, Field Representative, Unemployment Insurance Division, sent in written testimony (EXHIBIT #4).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Sen. Brown said there was a fiscal note attached to this bill. Mr. Mullin stated the Department of Labor and Industry will work with the Department of Administration on what the sign will cost. As far as the plaque inside the building commemorating Mr. Walt Sullivan, the department will be honored to absorb the cost for that.

HEARING ON SB 154

Opening Statement by Sponsor:

Sen. Rye, Senate District 45, presented SB 154 at the request of Common Cause. SB 154 provides for the disposition of surplus campaign contributions of a candidate or political committee. This bill attempts to create a level playing field for candidates whether they be incumbents, challengers, or people running for a different seat. The deck is usually stacked in favor of an incumbent. What is important is what the bill does not allow. Personal expenditures are out as well as war-chest building for future races. There will be an amendment to page 1, line 11, following the word committee, inserting the words organized to support or oppose a candidate. If you are a Democrat that would like to see your party regain control of the House or a Republican that would like to see your party regain control of the Senate I hope you support this bill.

Proponents' Testimony:

Amy Kelly, Director of Common Cause Montana, gave written testimony (EXHIBIT #5).

Ann Prunuske, Executive Director of MontCEL, gave written testimony (EXHIBIT #6).

Mike Pichette, Montana Power Company, added there is existing language in the definition sections (Title 13-37-101, Par. 12, Part a) that contemplates the existence that are organized to support or oppose a candidate or a ballot issue. As long as this does not apply to Political Action Committees or political parties, we do not take any position on it.

Phil Campbell, Montana Education Association said if the committee adopts the amendment we do not have a position on the bill. If you do not adopt the amendment we would oppose the bill for the reasons stated. It was not the intent to affect Political Action Committees.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Weldon asked Sen. Rye if the intent is to affect all political candidates and office holders. Sen. Rye said it was correct. Sen. Weldon this bill is particularly directed to legislative candidates. The Governor could hire a legislative intern during a legislation session or the Governor could prepare correspondence to constituents during the legislative session. It seems strange that we would allow that kind of activity during the legislative session for non-legislative office holders. Sen. Rye said there was a gray area between politics and government. For example, the proper function as a state legislator is to respond to your constituents. At the same time, that does not hurt you politically. Things we do out of the noblest of intentions can also be enormously self-serving. Sen. Weldon said he supports this in spirit. Sen. Weldon plans to do a newsletter during the legislative session and this bill prohibits him from doing that. Sen. Rye said he does not read the bill that way. Preparing correspondence to constituents during legislative session is cited as a legitimate function. You want to prepare one after the session. Sen. Weldon said yes. Sen. Rye said it falls in the category of correspondence. Sen. Weldon said the bill says "during the legislative session." Sen. Rye said you might want to strike the words "during a legislative session."

Sen. Hockett asked Sen. Rye about the expenses that may be incurred in Section 1, (d). Sen. Rye said he did not see a legitimate purpose being served by bussing your constituents to Helena to talk to you.

Sen. Hockett asked Sen. Rye when is the money required to be disposed of. Sen. Rye said there are certain areas where time delineations are mentioned. The answer would vary depending on the circumstance of how the candidate chose to use the surplus.

Sen. Burnett asked Sen. Rye if it affects the U.S. Senators and Congressmen. Sen. Rye stated it applies to congressional races in Montana as well.

Sen. Weldon asked Amy Kelley about the list of things a candidate can and cannot do. Did she exclude the things a candidate can't do. Amy Kelley stated when this proposal first came about the spirit of it was to not allow candidates to keep the money for personal use or to retain money for a future campaign. Maybe the wording should have been "you may do whatever you want with the money except keep it for personal use or save it for a future campaign." Perhaps that is the way it should be amended.

Sen. McClernan asked Sen. Rye if any thought was given to how it was going to be enforced. Sen. Rye referred to Ed Argenbright for the answer to the question. Ed Argenbright stated he was at the hearing neither as a proponent or an opponent and came here because of interest in the issue of campaign finance. In terms of the practicality of enforcement he also had questions and did not know the answer. Sen. Rye stated the penalties for violation of campaign codes are set out in existing law.

Closing by Sponsor:

Sen. Rye stated the committee all knew how tough it was for an challenger since most of the members were here by challenging an incumbent. It was an ironic situation asking a tableful of incumbents to make it easier for challengers. There is an instinctive reaction against making things easier for an opponent. I also think it is the fair and right thing to do. During the last legislative session, Sen. Rye voted with his own party. There was one case where he crossed over and voted with the other side. Three of the contributors made it clear that they will be reluctant to contribute to future campaign of his as the result of that vote. If he had a warchest partially based on their contributions he does not think it would be legitimate because they were believing he would do certain things and in their judgement betrayed their trust. The bill is fair and makes the playing field more level for challenger candidates but it would still be tilted in favor of the incumbent. The incumbent will still be able to win most of the time. This should not be an issue. A smart candidate should spend all of the money he or she gets in a given race. He urged support of SB 154.

HEARING ON SB 143**Opening Statement by Sponsor:**

Sen. Keating, Senate District 44, stated SB 143 would amend the language in statutes regarding notarial acts. Several sessions ago arrangements were made to allow foreign notaries to function in Montana, and North Dakota did the same thing. However, the language in statutes in trying to expand the commission's operation from county to throughout the state, the language specified the notary could act to the boundaries of Montana. North Dakota held that that was a limitation. Sen. Keating looked at it as an expansion from county to the edge of boundary as authorized by Montana. North Dakota assistant attorney general held that to be a limitation and wanted to say Montana restricts their commission to just Montana. Therefore it is not legal in North Dakota. This bill amends that section so the notary could function in North Dakota. Sen. Halligan's bill on the uniform codes on notarial commissions does exactly what this bill does. So this bill is not necessary and he would like the committee to table this bill. He will watch Sen. Halligan's bill and if it passes, this bill will never be heard of again. However, if there is some roadblock on Sen. Halligan's bill he may be back. This is very important to a lot of people.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Sen. Keating closed.

EXECUTIVE ACTION ON SB 143

Motion: Sen. Swift moved SB 143 BE TABLED.

Discussion: None.

Vote: Motion to TABLE SB 143 carried unanimously.

EXECUTIVE ACTION ON HB 20

Motion: Sen. Weldon moved HB 20 BE CONCURRED IN.

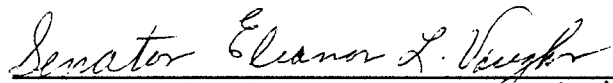
Discussion: None.

Vote: Motion HB 20 BE CONCURRED IN carried unanimously.
Sen. Lynch will carry the bill in the Senate.

There was additional discussion on SB 154.

ADJOURNMENT

Adjournment: 12:00 a.m.



SENATOR ELEANOR VAUGHN, Chair



DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 1-21-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit			✓
David Niss	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 21, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 20 (first reading copy -- white), respectfully report that House Bill No. 20 be concurred in.

Signed: *Eleanor Vaughn*
Senator Eleanor Vaughn, Chair

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 1-21-93

BILL NO. HR 20

January 20, 1993

Greetings Honorable Members of the Senate,

My name is Diane Bianchi. While I was Walt Sullivan's immediate supervisor for the two years before his death, I was his friend for thirteen years. I am writing to urge you to vote in favor of renaming the Labor Building the Walt Sullivan Building.

When I started with Unemployment Insurance in 1976, Walt worked as a computer programmer. I quickly learned Walt approached life with enthusiasm, humor and joy. Walt became a Field Rep in 1978. He was tickled about the promotion since he would be working with people instead of numbers.

For over ten years, Walt helped employers register for Unemployment insurance coverage, audited employers, and collected delinquent taxes and quarterly reports. He was a champion of the Unemployment Insurance and Workers Compensation programs since they helped both employers and unemployed workers.

If employer's needed help with Montana's employment laws, Walt became their champion and helped them navigate the System. If he knew an employer was endangering their employees by failing to carry Workers Compensation, he did everything possible to bring the employer into compliance. Walt also felt every employer should pay their fair share of taxes.

When I was promoted to the Field in 1979, Walt trained me how to be a Field Representative. He tried to teach me to be fair, patient, and understanding. Walt said I should trust employers would do as they promised unless the employer by word or deed showed they couldn't be trusted.

Walt might have laughed about the Labor Building being named the Walt Sullivan Building but Walt was murdered while working to protect the rights of Montana workers and employers. Please consider the renaming of the Labor Building as an acknowledgment of Walt's sacrifice.

Thank you for allowing me to present this testimony and please vote in favor of this resolution.

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 1-21-93

BILL NO. SJR 12

Testimony - SJ 12

"Name Labor and Industry Building for Walt Sullivan"

I'm Sandy Bay, Chief of the Contributions Bureau, Unemployment Insurance Division of the Department of Labor and Industry. I'm here today on my own time to testify in support of Senate Joint Resolution 12 to rename the Labor and Industry Building the "Walt Sullivan Building".

I came to know Walt Sullivan when I started working for the Department of Labor & Industry (DLI), then known as the Employment Security Division in 1973 and continued working with Walt until his life was ended three years ago. Walt was conducting Department business in Shelby at the time of his murder.

Walt Sullivan was well liked by all who knew and worked with him. He was a great guy - always offering willing to help others on a moments notice, and very dedicated to his family and to his job as a field representative for DLI. He was friendly, helpful, knowledgeable and caring and took great pride in doing his job.

Walt was concerned with fairness and ensured that Unemployment Insurance and Workers' Comp laws were applied consistently and fairly to employers and workers in Montana.

After Walt's unfortunate death, several firms expressed to me their sympathy and relayed that it was always a pleasure dealing with Walt. He was very accommodating and always eager to help. Unfortunately, in his last work assignment, he may have been too dedicated and accommodating.

It has been very frustrating to those who knew Walt and his family that this case has not been resolved. In speaking on behalf of the field representatives and hundreds of others in our agency, we feel that one way of showing support to Walt's family and keeping Walt's memory alive in our hearts, is to dedicate and rename the DLI building as the "Walt Sullivan Building." A letter in support of this proposal has been signed by 200 department employees.

Walt Sullivan paid the ultimate sacrifice while working for the Department of Labor & Industry. The least we can do is recognize Walt Sullivan by naming the DLI building after him.

I appreciate your consideration in passing this resolution.
Thank you.

DEPARTMENT OF LABOR AND INDUSTRY

UNEMPLOYMENT INSURANCE DIVISION

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

P.O. BOX 1728
1327 Lockey
Helena, MT 59624

Benefits (406) 444-3783
Contributions (406) 444-3834



February 3, 1992

Mike Micone, Commissioner
Montana Dept. of Labor & Industry
PO Box 1728
Helena MT 59624-1728

Dear Commissioner Micone;

In November of 1989, Walt Sullivan was killed while working for the Montana Department of Labor and Industry. While the events leading to Walt's death remain a mystery, those of us who worked with Walt believe his death was directly related to his job. As friends and co-workers of Walt Sullivan, we treasure memories of Walt. Others, new to the Agency, may not know Walt Sullivan gave his life while serving Montana's public.

As Walt's friends we would like to propose a memorial to Walt. Since the Labor & Industry Building doesn't have a name, we propose the building be dedicated the Walt Sullivan Building. A bronze plaque with a short acknowledgement of Walt's 17 years of State service and his death would be placed near the building's front entrance. Such a memorial will keep Walt's memory alive in our hearts and let others know of Walt's dedication to his job and his unfortunate sacrifice.

Your favorable consideration of this proposal will be greatly appreciated.

Diane Bianchi
Danielle Fogarty
Mary Bernhardt
James B. Nell
James P. Zadra
[Signature]
Mike O'Neacht
Amy & Everett
[Signature]
Evelyn D. Kehler

Calvin & Co
Dale Buechler
Tom Brodoway
[Signature]
Kevin Miller
Roy Hagen
Dick Cramer
[Signature]
[Signature]

Sandra Bay
Elizabeth Raymond
[Signature]
Kathy Frandsen
Rudy Tangel
Winnifred Homak
Gus Benson
Carol Paulson
Jeannette
Ara Brown

Debbie Wilson

Peggy Cloninger

Shonda Habstad

Wach Wilkison

Fun Day

Maggie Cunniff

Georgia Trunch

Carol Reed

PAY ROLL

Kay Henry

Kim Barnes

Sharon Houden

Pete Martin

Jimmy Miller

John Zwalney

Tom Cowley

Bob Arnold

Priscilla

Cathy Shunkle

Rita Watson

Bob Ralston

Sharon Meyer

Sandy Jones

William R. Coy ^{III}

Jerry Keller

~~Richard~~

Teresa S

Tom Jones

Jana Bond

Lynne Coon

Susan Jackson

Betty A Walker

Bruce Daniels

Mary Schilla

Brandi Bennett

Annette Birchard

Kathy Burton

Cheryl Grey

Barbara Morin

Bonnie Fighero

Jammy Kitem

Gaye Dubois

Candy Jones

Sue Schaff

Gloria Kraft

Exhibit #2
1-21-93
SJR-12

Linda Wilson

Wendy Moriarty

Jennifer Jacobson

Arud Koenig

Patty Vanada

Spiley Vermillion - Great Idea!!

Wesley H. Barnes

Al Kummer

Dennis Shea

Ely M Pratt

Rever A Paul

Luis Brothers

Scott Muth

Jaime Eideen

Keith Messner

Rae Rogstad

Sharon Schilling

Sam McDaniel

Ray Bracker

Donna T. Hardwick

Barbara Schock

C. L. Smith

Barb Hultgren

Patt Sullivan

Jackie Lee

Shari Erwin

Nigel Noland

Bill Bl

Raven Smith

Kara Christianson

John Weida

Jean Paddock

Dan Folsom

Larry Roberts

Shirley Hiles

Rob Behr

Kate Kable

Ward Stiles

Bob Schlich

Barry D. Jensen

Peggy McMalon

Mary Buswell
Lis Anderson
Lue Thompson
Carol Paulsen
Mary Belle Fulk
Carol Deegan
Bernie Warren
Janita Murray
Doranne Feibhan
Genny Lines
Janice Schmitz
Lewelly Wanders
Lynette Stern
Jeanne Page
Kathy George
Dorsette Thompson
Helen Byers
Rudy Tamul
Shirley Graham
Mary Fried
Bob King
Nore Bennett
Ken Stevens
L. M. [unclear]

Raini Williams
Scott Bryan
Jeanne Ruzhney-Linted
Don Bellert
Patricia Nott
Joy Baudu
Ellen Halberg
Ann [unclear]
Dolores Pennington
Dorothy Jones
Mabel Sailer
Sheyla Strong
Karen Lottler
Melissa Carbis
Carol Filchen
Frances Steens
Delores Warren
Susan G. Anderson
Ann E. Pierce
Andrea Dandro
Dorise Tomich
Julie Parker
Dorena Andrews
Karen Parske
Rachey Bawden
Kim Capps
Klenda Corcoran
Jeanne Murphy

Thomas J. Sugg
Mary D. D.
Cynthia King
Robert H. Stewart
Darrall Brown
~~Ed. King~~

Nancy Dr. Rudeof
Karen Suehey
Del Carroll
Kimberly Woods
Cheryl Philard
Tom Murphy
Connie Farrow
Steve Welsh

Mike Collet
Diane Kuyford
Margaret Councey
Karen Dummitt
Jim Wheat
Ray Walsh
Bill Hoban
Sue Carr
John R. Graham
Paul D. O. St.
Annette Williams
Duane A. Schaff

JSEC

115 First St
Havre, Mt 59501
January 20, 1993

Eleanor Vaughn, Chair
Senate State Administration Committee
State Capitol
Helena, Mt 59620

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 1-21-93

BILL NO. SJR12

Dear Senator Vaughn:

This letter is in support of SJR 12, naming the Labor and Industry building the "Walt Sullivan Building". Our Job Service Employer Committee joins the many people across the state wishing to honor the memory of Mr. Sullivan in this way.

Thank you.

Sincerely,

Mildred Dawson

Mildred Dawson, Chair
Havre Job Service Employer Committee

cc: Senator Bob Hockett
Senator Greg Jergeson
Representative Ray Peck
Representative Bob Bachini
Representative Francis Bardanouve
Representative Roger DeBruycker

DEPARTMENT OF LABOR AND INDUSTRY

UNEMPLOYMENT INSURANCE DIVISION

MARC RACICOT, GOVERNOR

STATE OF MONTANA

P.O. BOX 1728
1327 Lockey
Helena, MT 59624

Benefits (406) 444-3783
Contributions (406) 444-3834
Fax (406) 444-2699

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 1-26-93

BILL NO. SJR 12

January 19, 1993

Senate Ad-Min Hearing
Senate Joint Resolution #12

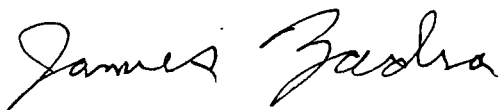
To whom it may concern:

I apologize for my absence at this hearing. I had a number of people subpoenaed to the Lewistown Job Service for this week. These were appointments I could not break.

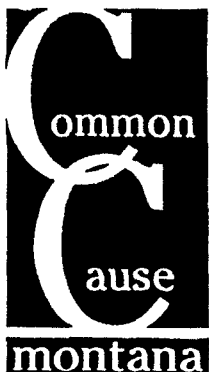
I was honored to work side by side with Walt Sullivan from August, 1984, until his death. Walt was one of the most conscientious state workers I have ever known. He continually stressed equity in our labor laws, not only for employees, but also for employers. If you had any type of problem, Walt would only be a phone call away.

I can think of no better tribute to his memory than the renaming of the Labor Building in Helena to the Walt Sullivan Building. I will never forget Walt Sullivan, and hopefully this dedication would serve as a reminder to all of the good work by and the friend we had in Walt Sullivan.

Sincerely,



James Zadra, Field Representative
UNEMPLOYMENT INSURANCE DIVISION
Montana Department of Labor & Industry
PO Box 1508
Great Falls, MT 59403
(406)761-1730



STATE ADMIN.
NO. 5
DATE 1-21-93
BILL NO. SB 154

COMMON CAUSE TESTIMONY
IN SUPPORT OF SB 154
JANUARY 21, 1993

P.O. Box 623
Helena, MT
59624
406/442-9251

Madam Chair, members of the Committee, for the record my name is Amy Kelley, Executive Director of Common Cause/Montana.

On behalf of our members, I wish to register our support for SB 154, delineating the specific allowable uses for surplus campaign funds.

When former Governor Stan Stephens announced in January 1992 that he would not seek re-election, Commissioner of Political Practices Dolores Colburg was asked to determine whether it was proper and legal for Stephens to pass on his \$100,000 campaign fund to Lt. Governor Dennis Rehberg and his new running mate, then Attorney General Marc Racicot. Colburg's response was:

"Montana law is silent as to how surplus campaign funds may be used."

Under current Montana law, a candidate -- whether winner or loser in the race -- may do whatever s/he wants with that money.

Under current law, therefore, several problematic situations could arise:

1. The candidate could simply pocket the additional funds for personal use. That violates the unspoken "contract" between the candidate and the contributor who donated hard-earned money to help the candidate win that race.

2. A candidate could raise funds above and beyond the needs of his or her campaign, and save that money for a future campaign. Thus, the incumbent -- who already has the advantages of the "free publicity" of an office-holder -- has an unfair head start on the next campaign before it even begins. What's more, that accumulation of monies could discourage challengers from considering to run for office in the first place.

3. A political action committee or other large donor who knows the candidate does not need more campaign money could seek to improperly influence the candidate by essentially giving a "post campaign gift."

Common Cause testimony
in support of SB 154 -- p. 2

In 1988, according to reports filed with the Commissioner of Political Practices, many candidates in Montana held surplus campaign funds at the close of the campaign:

* In the Senate, 19 of 47 candidates reported a total of \$ 13,340 in surplus funds ranging from \$ 25 to \$ 2,293.

* In the House, 90 of 174 candidates reported surplus campaign funds totalling \$ 37,908 ranging from \$ 0.14 to \$ 4,551.

Montana law needs to lay out what is an acceptable use of surplus campaign funds. Thirteen other states have enacted laws specifically listing what choice a candidate has for dealing with surplus funds. Four states -- AK, MD, MA and MI -- have stipulated the specific ways in which surplus funds must be used within a set amount of time. These include:

- * return to contributors;
- * payment to party central committee; and
- * donation to local board of education or recognized nonprofit educational or charitable organization.

In addition, eleven states -- AZ, CA, GA, KS, LA, MA, MI, MO, NY, TX and VT -- prohibit the conversion of surplus funds to the candidate's personal use. Most of these laws were passed or enacted in the past three years. And, on a national level, this year marks the first time a member of Congress is no longer allowed to transfer surplus campaign funds to personal savings.

It is true, in Montana we are not speaking of multi million-dollar campaigns and gross abuse of contributor money. However, we have already forced the Commissioner of Political Practices into the corner of pointing out that, when the situation does arise, there simply are no guidelines in current law to spell out what are legitimate uses of surplus campaign funds.

This bill provides those guidelines.

Common Cause urges a "do pass" on SB 154.

Since this civil suit was filed on June 5, 1992, nothing transpired surrounding it by the close of the fiscal year-- including acceptance of the summons by the defendants.

ADVISORY OPINIONS

As with complaints, any number of inquiries are directed to the office during an election year seeking interpretation of the campaign finance and practice laws. Often, such questions are presented orally and are answered easily through a telephone call explaining the law or by sending a copy of a rule.

Many, many callers asked about a new law effective for the 1992 election cycle requiring a candidate's party affiliation on election materials. Mainly, they asked if one could use party symbols (i.e., donkey or elephant) for the two major parties and if a certain size of party designation was required. They were told that the law allows party symbols to be used and that it is silent as to the size of either a party symbol or name.

Some inquiries, however, are of such a nature that a written request is required before an advisory opinion will be provided. Just four written advisory opinions were provided in FY '92; they are summarized below.

Transferability of surplus campaign funds from one campaign to another when candidacy is withdrawn or the office sought is changed in same election cycle, AO 1992-1

Having publicly declared in 1991 that he would be a candidate for re-election in 1992 with incumbent Lieutenant Governor Dennis Rehberg as his running mate, Governor Stan Stephens then announced on January 31, 1992, that he had decided not to seek re-election as governor and not to run for any other office. Rehberg then agreed to be the running mate of Marc Racicot, who, having announced publicly earlier that he would seek re-election as attorney general, decided to run for governor when Stephens dropped out.

Before Stephens decided not to run again for governor and before Racicot opted to run for governor rather than for attorney general, both had received campaign contributions for their previously announced intentions. Surplus funds remained in both the Stephens/Rehberg campaign and Racicot for attorney general campaign.

In February 1992, the new Racicot/Rehberg campaign asked the following questions:

1. May surplus campaign funds in the Stephens/Rehberg campaign remain with Rehberg and be used in the Racicot/Rehberg campaign?

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2. May gubernatorial candidate Racicot use funds received when he was a candidate for attorney general in his campaign for governor?

Montana law is silent as to how surplus campaign funds may be used except for public campaign funds (from tax check-offs) available under part 3 of chapter 37, Title 13, MCA. Sections 13-37-304 and 306, MCA, require that such public campaign funds must be used for ". . . legitimate campaign expenses." There is no similar requirement for other campaign contributions.

In a letter dated February 12, 1992, the commissioner noted that funds received by the Stephens/Rehberg ticket were received for the purpose of influencing an election. Once received, the funds could be expended by the Stephens/Rehberg ticket in accordance with Montana's election laws. Dennis Rehberg, as one-half of that gubernatorial ticket, continued his candidacy as a lieutenant governor candidate on the Racicot/Rehberg ticket; that is, Rehberg's status as a candidate carried over to the new Racicot/Rehberg ticket. If Governor Stephens had no objection to the retention of the Stephens/Rehberg surplus campaign funds by Lt. Governor Dennis Rehberg, such retention was not prohibited by Montana law. Nothing in Montana's election laws would prohibit the surplus Stephens/Rehberg campaign funds remaining with Lt. Governor Rehberg from being used by him in the Racicot/Rehberg campaign.

The same rationale applied to the campaign funds raised by Marc Racicot as a candidate for attorney general. Nothing in Montana law prohibits a candidate who receives campaign funds while a candidate for one office from using those funds in another campaign if he or she subsequently decides to run for a different office during the same election cycle. Of course, all contributions received and expenditures made must be in accordance with applicable requirements, particularly those setting maximum contributions permitted from individuals and from committees. Such contribution limits would not be a problem, however, since Racicot decided to run for governor, an office to which higher contribution limits apply than for the office of attorney general.

Contributors who contributed maximum amount permitted by law to Stephens/Rehberg campaign may contribute to Racicot/Rehberg campaign if no funds transferred from earlier fund. AO 1992-2

In a letter dated February 24, 1992, Glenn Marx, campaign manager for the Racicot/Rehberg campaign, asked the following question:

May those contributors who contributed the maximum amount to the Stephens/Rehberg campaign now be allowed to contribute to the Racicot/Rehberg campaign?

Testimony on Senate Bill 154

SENATE STATE ADMIN.

EXHIBIT NO. 6

DATE 1-21-93

BILL NO. SB154

Madame Chairwoman, Members of the Committee, my name is Ann Prunuske. I'm the Executive Director of MontCEL, an independent political action committee.

The purpose of this bill as I understand it, is to prevent candidates from pocketing wads of leftover campaign donations after an election. While I think this purpose is quite defensible, there are a few problems with this bill as written.

First, there are three kinds of political committees defined in the Administrative Rules of Montana, none of which are the group of people who work meet and work most closely with a candidate - what we commonly call a campaign committee.

The three kinds of political committee are: principal campaign committees which support one candidate or issue, independent committee who support various candidates or issues, and Incidental committees, which are basically two or more people make a contribution to a candidate or issue.

MontCEL is an independent committee. We endorse and work with a number of candidates. We're also an ongoing committee. It's not often we have money left at the end of an election year, but it does happen. Should this bill pass as written, MontCEL could not use the money it raises from selling raffle tickets in December to pay rent in January.

If indeed the intent of this bill is to stop candidates from making personal use of campaign donations, the words "political committees" should be stricken.

If the intent of the bill is stop all political committees as well as candidates from carrying over contributions from one year to another, what is to stop us from buying thousands of stamps and then cashing them in on January 1st? How on earth could this bill be enforced?

Last, I wish to point out that the bill allows a candidate or political committee to donate the money to a bona fide nonprofit organization. Members of the committee, I don't know of any 501(c)(3) organization under the IRS codes (the only kind to which contributions are tax deductible) that would even consider touching "political" money.

MontCEL supports the spirit of this bill. Indeed, there are several portions of the election laws we feel should be clarified. However, to achieve its goal this bill needs some serious work. Thank you.

DATE 21 January 1993

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 143, SJR 12, SB 154, HB 20

Name	Representing	Bill No.	Check One	
			Support	Oppose
<i>[Signature]</i>	<i>MTPEA</i>	<i>SJR 12</i>	X	
AMY KELLEY	COMMON CAUSE	SB 154	X	
MIKE KNECHT	SELF	SJ 12	X	
<i>Sue Mohr</i>		SJ 12	X	
Sandy Bay	self	SJ 12	X	
Bev Wanders	Self	"	"	
Harold Kassier	SELF	SL 12	X	
Debra Juelton	Dept of Adm	HB 20	X	
<i>Ray Mahoney</i>	SELF	SJ 12	X	
ANN PRUNUSKE	MTCEL	SB 154		
Mike Pichette	MT. Power	SB 154		Amend
<i>Ed Augenbright</i>	Comm. of Pil Practices	SB 154		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY