

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By Chairperson Eleanor Vaughn, on March 20, 1991,
at 10 A.M. in room 331.

ROLL CALL

Members Present:

Eleanor Vaughn, Chairman (D)
Bob Pipinich, Vice Chairman (D)
John Jr. Anderson (R)
Chet Blaylock (D)
James Burnett (R)
Bill Farrell (R)
Harry Fritz (D)
Bob Hockett (D)
Jack Rea (D)
Bernie Swift (R)

Members Excused: None

Staff Present: David Niss (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 404

Presentation and Opening Statement by Sponsor:

Representative Larry Grinde, House District 30, Lewistown, said House Bill 404 is an act to submit to the qualified electors of Montana an amendment to Article X, Section 11, of the Montana Constitution to provide that the state may transfer public lands of the state that are not subject to restriction by a grant from the United States to a local government for less than full market value as provided by general laws. There are small parcels of land around the state that are not used by the department that owns them. The local governments that contain those parcels generally can not afford to purchase them at fair market value from the state. A private corporation could pay the top value assessment to the land. He gave examples of towns around the state that have used state parcels, for fair grounds, parks, Zoo Montana. He passed out newspaper clippings of land problems local governments have been faced with. (Exhibits 2 and 3) The

particular parcel in which he is interested, is under the Department of Institutions. In 1952 the Lewistown Chamber of Commerce gave approximately 40 acres to the Dept. of Institutions to build the Center for the Aged. It was built on approximately 8 of the 40 acres. They have 32 acres that has 2 ponds and is a beautiful site with some development around it. He wants to keep it a wildlife area that the community can use for elderly and children's fishing. Presently, he could get a 99 year lease on that area. There is a grant from the Fish and Game for \$50,000. The junior high students have been monitoring the ponds for their science projects for over 10 years. They have applied for some grants through the educational system to redo the ponds. They are trying to get clear title to the land, get the grants, and get the park into proper order. This legislation only applies to political subdivisions.

Proponents' Testimony:

Linda Stoll-Anderson, represents the Montana Association of Counties, and supports House Bill 404 for all the same reasons she testified for the Lewis and Clark Fair Grounds bill. The local communities can benefit from legislation like this.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Rea asked how does this bill differ from Representative Grady's bill? Linda Stoll-Anderson said this bill is an amendment to the Constitution to allow the State to give land to local governments. In Representative Grady's bill there has to be consideration, land or money or other consideration.

Senator Blaylock said in some cases communities have constructed buildings and added to the value of the property. It wouldn't be fair to ask them to pay again for that. But, when you purchase land you should have to pay fair market value. Why should the state give the land?

Representative Grinde said that in the case of Lewistown, the fair market value is so great that the city could not afford to purchase something which they had given away to begin with. It is a prime development site.

Senator Anderson said that Senator Grady's bill said you had to pay for the land but it doesn't have to be put into the competitive bidding process. That is fair to the local governments and those who have invested in the facilities.

Representative Grinde responded that he would have to take the Fish and Game grant and the school grant and build improvements to activate Representative Grady's bill. He would like to have the land before the expenditures for the improvements.

Senator Blaylock said it would not go up for competitive bid. If that is in a residential area the city wouldn't have a chance to buy it. If you pay for the 30 acres, is that impossible? Rep. Grinde said the land around this "park" sells for \$10,000 per lot and up. The fair market value is judged by the surrounding area and therein is the problem.

Senator Farrell asked how the state acquired the land in the first place and was there a reversion clause? Rep. Grinde said that land was given to the state of Montana, the Dept. of Institutions, by the Chamber of Commerce of Lewistown. The Chamber of Commerce bought it from a private individual and gave it to the Dept. There was no reversion clause in that gift.

Senator Hockett asked if Lewistown would put some money into the project if they owned the land? Rep. Grinde said they have several places to get money. The plan is to use Fish and Game Engineers, there would be handicapped access, and it would be opened to fishing.

Senator Pipinich asked about a private Saddle Club in his area. Rep. Grinde responded that is a private club on State Land, and Representative Menahan wants to get the land into the county.

Senator Vaughn asked if there is strong opposition from the public for this park. Rep. Grinde said Lewistown is 100% behind this project.

Senator Vaughn asked if the county owns the land, are they the ones who apply for the grants for these projects. Do they operate the projects? Are they going to sublease that to somebody else? Rep. Grinde said the grant he's working on with the Fish and Game is actually a match. The municipality of Lewistown would take over this area and do all the maintenance for the existence of the pond.

Senator Rea asked if Fergus County would own this parcel? Rep. Grinde responded that the City of Lewistown would own the parcel.

Closing by Sponsor:

Representative Grinde said this is not School Trust Land. The Constitution doesn't allow local governments to receive land from the state. He doesn't like asking for a Constitutional amendment. There are many small parcels like this that should be used for public activities. The people will have to vote on this, and if it's their desire to allow land exchanges between government entities, they the public will be well served.

HEARING ON HOUSE BILL 535Presentation and Opening Statement by Sponsor:

Representative Howard Toole, House District '60', Missoula, said House Bill 535 brings into the campaign practices law a limited right of action on the part of a private citizen to sue for violations of our campaign practices. The bill began as an effort to bring into campaign financing a rule in the lobbyists disclosure and regulation laws that allow for private rights of action. This bill is identical to those for the lobbyists' statute. The House amended this bill significantly to solve problems that the committee found. Now the bill reads on page 2, line 18 the action can only be brought if, after notification to the County Attorney, that the Commissioner of Campaign Practices or the County Attorney have failed to commence an action or dismiss a complaint by written notification, within 50 days after notice. If one of them make a decision, the action is foreclosed. If they fail to make a decision within 50 days, then the citizen can proceed. The bill now mandates the shifting of fees in the event that the case was brought without adequate basis for reasonable cause. The House amendments addressed the concern about frivolous suits.

Proponents' Testimony:

C. B. Pearson, Executive Director of Common Cause/Montana, supports House Bill 535 and read his testimony into the record. (Exhibit 4)

Chris Kaufman, Montana Environmental Information Center, works with citizens groups to teach them how they can participate in government. She supported House Bill 535 because it empowers citizens to become involved in the process and to help speed up the process.

Don Judge, represents the Montana AFL-CIO, said they would be covered under this act and they are not afraid of it and encouraged the committee to pass House Bill 535.

Jonathan Motl, Attorney with the firm, Reynolds, Motl, Sherman and Wright, has served as executive director of Common Cause/Montana in the years 1983-84. He supports House Bill 535 because it is a citizen adjunct to executive branch agencies. His expertise lies mostly in Montana's Lemon Law in the Montana Consumer Protection Act. The Department of Commerce is given the primary enforcement of both those laws. However, there is a citizen's provision where they can bring law suits with an attorney in district court. He's filed 40 of those law suits that have resulted in either settlements or verdicts in favor of citizens. A state like Montana needs this kind of legislation. We don't have the wealth in this state to interpret our laws, as executive branch decisions, decisions made by attorneys working for the state, or decisions made by attorneys for private

citizens. This focuses the type of action where it belongs. He said the bottle bill campaign tested Montana's initiative laws. The Commissioner of Political Practices may not want to address a problem because of the costs in time, legal research, and the legal costs. This gives the option to the Commissioner to pass making the decision. If a citizen wants to then file a suit and run the risk of attorney fees, it would resolve the problem. Do pass House Bill 535.

Kristin Page, Montana Public Interest Research Group, has public citizen support. They work on environmental, consumer, and good government issues. There are several conditions in the bill to prevent harassment, but it does allow citizens a right to express their beliefs, if they are willing to pay the cost. She thanked the committee for allowing her to participate in the process and encouraged a do pass on House Bill 535

Ronee Hanson, Montana Senior Citizens' Association, supports House Bill 535.

Art Kussman rose in support of House Bill 535 and read testimony to the committee. (Exhibit 1)

John K. Addy wrote 2 letters in support of House Bill 535. (Exhibits 6 and 7)

Opponents' Testimony:

None

Questions From Committee Members:

Senator Hockett asked if 50 days was a long time? Jonathan Motl explained that it is doubtful that a candidate would ever file against another candidate. The 50 days is a good amount of time to allow the Commissioner to look at the issue and decide if there is a public policy issue involved, and whether she wants to make a decision or pass on making a decision.

Senator Swift talked about the County Court system, their lack of funds, cases backed up, etc. Jonathan Motl said the courts are very good in dealing with policy issues. The problems in the court system are the non-policy issues. The dissolution issues that take so much time, should probably be in an alternative system. If we get 1 or 2 cases each year under this act, it will be many.

Senator Blaylock asked how many times are you aware of that the Commissioner didn't act?

Rep. Toole responded that he knew of only one, where there was an unresolved matter, the Commissioner received it, and there hasn't been a determination. If there is a situation where there is an ambiguity in our campaign laws that need a judicial decision, or

sets a matter of important policy that ought to go to the Supreme Court, the Commissioner can postpone a decision for 50 days. That's what opens the gate for a case. The Commissioner does all the campaign regulation in this state. The purpose of this bill is not to change that, but to allow for the situation where it appears to be important to establish policy through this mechanism. A citizen would have to face the attorney fees which they would have to pay to the prevailing party, should they have brought their suit without good cause.

Senator Burnett asked if we should be required to sign the Fair Campaign Practices paper? Rep. Toole said this bill is to be limited to situations that involve outright violations of existing campaign laws that are not acted upon through the County Attorney or Commissioner.

Senator Rea asked the Commissioner if there are problems that she cannot resolve? Dolores Colburg responded given enough money and staff you could resolve anything. She said 50 days is quite a short length of time to resolve some issues. As she reads the bill, if action is going forward on an issue, the bill doesn't apply. If a citizen feels that an issue isn't handled in a timely fashion on a properly filed complaint, it provides leverage to get the Commissioner to act or go to court under a citizen's action.

Senator Vaughn asked about the cost to the Commissioner's office if this bill were to be enacted? Dolores Colburg responded that no increase is expected. A colleague in California indicated that the State of California has had this legislation on its books for 16 years and in that time there has not been 1 successful citizen's action filed.

Closing by Sponsor:

Representative Toole called attention to lines 18 through 21 because that sets the parameters for what House Bill 535 does. A citizen or citizen's group ought to have this power. He urged support of House Bill 535.

Discussion on House Bill 896:

Senator Vaughn said there are amendments prepared by Attorney David Niss to House Bill 896, which he gave to the committee. House Bill 896 pertains to the powers and duties of the State Fire Marshall.

HEARING ON HOUSE BILL 472

Presentation and Opening Statement by Sponsor:

Representative Jane DeBruycker, House District 11, said this

is a rehearing of House Bill 472, because it was brought back from the Senate floor. Senator Steve Doherty is bringing amendments to House Bill 472 which Senator Van Valkenburg had requested during regular session.

Proponents' Testimony:

Senator Steve Doherty, Senate District 20, Great Falls, handed the committee copies of suggested amendments to deal with the issue of quasi-judicial. (Exhibit 5) These amendments attempts to define problems when there aren't quasi-judicial activities happening.

David Niss said he did draft those amendments on March 14, and that's the last word he had from Senator Van Valkenburg.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Farrell asked John Alke if he would like to speak before the committee.

John Alke said he had reviewed these amendments, and he judges them to be worse than the language that caused the Montana Supreme Court to have fits to begin with. They attempt to tighten up the definition of quasi-judicial and say that is not lobbying, if it's contested case. But if it's other than a contested case, it's lobbying. He's a lawyer and prepares an application to the PSC for the change in tariffs. Now if the tariff is a big rate increase, I assure you that becomes a contested case. This bill says that's not lobbying. He, also prepares applications to change tariffs to do esoteric things like changing thermal zone 18 to thermal zone 19, to change the boundaries of thermal zone 20. No one cares about those. Those are not kicked into a contested case procedure. Under this definition, the thing on changing thermal zones, that's lobbying. He does the identical thing with 2 different subjects.

John Alke said the practice of promoting rules will now be called lobbying. The problem you must remember is you are using very broad concepts to cover very small instances. The only people you will get are the non-lawyers. If you pass this into law, it will apply to non-lawyers. It won't apply to lawyers, because they will go to the Montana Supreme Court and say the Montana Legislature is saying that lawyers must get a lobbying license and report the work he does, when he appears in a rule making proceeding or a rate filing that does not become a contested case. If you pass this broad explanation of what is non-legislative lobbying you will set up attorney's as a special class of citizen who will get to do all these things without

complying with lobbyist disclosure and everyone else will be required to apply.

John Alke said a major flaw in the lobbyist disclosure law is that it ~~only~~ applies to someone who works for someone else. If you lobby for yourself, it's not lobbying. If you are paid by someone else, it is lobbying. He's learned a valuable political lesson in this process. He came in saying the Commissioner's deletion of the language to non-legislative lobbying you should approve because it doesn't change anything. He believes so strongly that he's correct that if you put the language back in, it won't change anything, because it doesn't mean anything.

The Supreme Court said that given the broad and vague definitions in lobbyist disclosure, anything that deals with administrative discretion is not lobbying. This bill creates the same dispute as before. You cannot tell a lawyer that to practice law you must have a lobbyist license. He believes that if this bill is passed, the Supreme Court will make at least the same decision as before and they may say that lawyers practicing law cannot be regulated through lobbyist disclosure. There is no super class now, but if you pass this amendment, lawyers will be a super class.

Senator Hockett asked Senator Towe if he would like to speak? Senator Towe said John Alke has made some very good points and he disagrees on some other points. He suggested amendments to the amendments. In amendment 4 he wants section "d" struck. There is ambiguity there. He believes that a lawyer who goes to the governor and tries to get him to veto a bill, is lobbying, because he is trying to influence legislation. He believes that if a lawyer goes to the Dept. of Revenue and asks to change a rule, he is influencing legislation. When it comes to determining a specific application to that policy to a specific individual, that is no longer policy making, it's enforcement.

Senator Pipinich asked Tom Judge, a lobbyist how he feels about this bill.

Tom Judge said that with these amendments, please kill the bill. Rule making for all the departments is an ongoing process, and many people across the state lobby for or against things at different times. If you put this into law, you better consider that the Commissioner of Political Practices will need additional staff for enforcement and education. He believes that lawyers could challenge this law pretty successfully. Why put into law something you can't enforce or that you can't adequately educate the public about? The original bill was a good bill, but these amendments are bad and he opposes this legislation.

Senator Fritz asked Mr. Motl to speak.

Mr. Motl is a registered lobbyist and appears today on behalf of Common Cause/Mt. He has appeared on behalf of the Lobbyist

SENATE STATE ADMINISTRATION COMMITTEE

March 20, 1991

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Disclosure Law year after year. He is content with the law as it is now. The part he is concerned about is the elimination of the effect of the law, which requires that lobbying before a public official be reported. He wants that left in the law. If you kill the bill, everyone is happy.

Senator Blaylock asked Dolores Colburg, Commissioner of Political Practices, if she could enforce this bill. He said we have stricken the language on page 3, the practice of promoting or of opposing official action by any public official. If we put that back, will you need additional staff to enforce it.

Dolores Colburg said that from a practical stand point, and given the Supreme Court Decision, and given her desire to carry out the laws of the State like she is sworn to do, she asked her legal council how she could administer the law. Her council responded that he knows of no circumstance in which a public official of state government isn't acting in quasi-judicial because they all have discretion, they all have ability to look at facts and render decisions. The original bill had as it's purpose none of this. The debate has been good because it has focused on the issues that have been before every commissioner since 1980, when the office was formed. She has tried to bring meaning to some confusing aspects of this law. She proposes that she work for 2 years to craft good language that would allow for some meaningful disclosure reporting of lobbying activity of a non-legislative nature. She would like to write something everyone would agree upon and have the ability to be administered by the Commissioner of Political Practices.

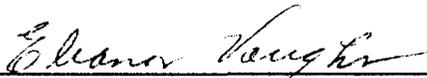
Senator Towe concurred with Commissioner Colburg. It makes sense to put the code back to the way it was and give her the time to work up proper legislation.

Closing by Sponsor:

Senator Vaughn closed the hearing on House Bill 472.

ADJOURNMENT

Adjournment At: 11:35 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

EV/dh

SA032091.SM1

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE 3-20-91

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL	X		
SENATOR HARRY FRITZ	X		
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT	X		

Each day attach to minutes.

Arthur F. Kussman
409 South Montana
Helena, Mt. 59601
Phone 442-6642

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 3-20-91

BILL NO. HB ~~536~~ 535

March 20, 1991

Madam Chairman and Members of the Senate State Administration
Committee:

The Governor's signing of HB 456 will improve campaign
finance reporting, Strengthening the existing law.

In the area of enforcement of Montana's campaign laws --
HB 535 -- also improves the existing law.

Personally -- I'm a member of Common Cause and AARP --
but I'm not officially representing either of those.

However, it is my feeling that a great majority of the
people who belong to those organizations -- and, in fact --
a majority of citizens favor the changes in the law that HB
535 will bring about.

We hope you'll agree and will give this bill a favorable
recommendation.

Thank you.



ART KUSSMAN
409 South Montana
Helena, Mt. 59601

Tel.: 442-6642

Opinion, comment

The Montana
Official newspaper of Butte-Silver

Land deal

Jefferson County should bill state for cost of fairground work

The Jefferson County Fair Board has a problem.

Ten years ago, the board began leasing a fair site south of Boulder from the state. The site used to be occupied by a dairy that served the Boulder institution. The dairy was discontinued years ago, and the site fell into disrepair.

Over the past decade, however; fair board members and volunteers put immense amounts of work into the site — repairing things, painting buildings, building fences, installing wiring, cleaning things up. A pair of wells were drilled.

The county's lease runs out Dec. 31. Instead of renewing the lease, the county wants to buy the land and have a permanent fairground. Inquiries were made with the state. Then the lawyers got involved.

According to lawyers for the state, Jefferson County probably can buy the land. However, the state is barred from selling below fair market value. And, according to the lawyers, the improvements made to the land by the fair people must be counted as part of the land's market value. In short, the

county would have to pay the state for the county's own improvements.

Reason may prevail, but it probably won't. It sounds like the lawyers have got that taken care of.

It's possible the county could benefit from a bill that will be introduced in the 1991 Legislature. If the bill passes, the state could make gifts of state lands under specific circumstances. Perhaps Jefferson County officials will place their hopes on the bill.

There's one other approach they might consider.

Send a bill to the state. Add up those hours of work, all those improvements, assign a professional cost to them and ask the state to pay. After all, the improvements were made to state land, and state lawyers admit that the improvements have considerably increased the value of the land.

The state owes Jefferson County a bundle.

And since the state is not exactly rolling in wealth, maybe it could work out a deal: Give Jefferson County a particular plot of land in lieu of cash.

WAGNER Chicago Tribune

Mr. Bush: "Well, wha



Term limits

Desperate after the failure of so many other weapons, George Bush and other Republicans are turning to term limitations as a way of breaking the Democratic hold on Congress.

Republicans hope that if members of Congress are forced to leave office after 12 years (the most widely embraced num-

Members of Congress

Grinde pushes his 'wild' dream in the heart of Lewistown

By ROBERTA DONOVAN
Tribune Correspondent

LEWISTOWN — Two small ponds in Lewistown have triggered in Larry Grinde a dream of fishing derbies, nature walks and bird watching.

Just northwest of the state home for the aged, the ponds are formed by dams across Little Casino Creek. Though poorly maintained, they have been a popular place with youngsters, a little bit of "wilderness" in the heart of town.

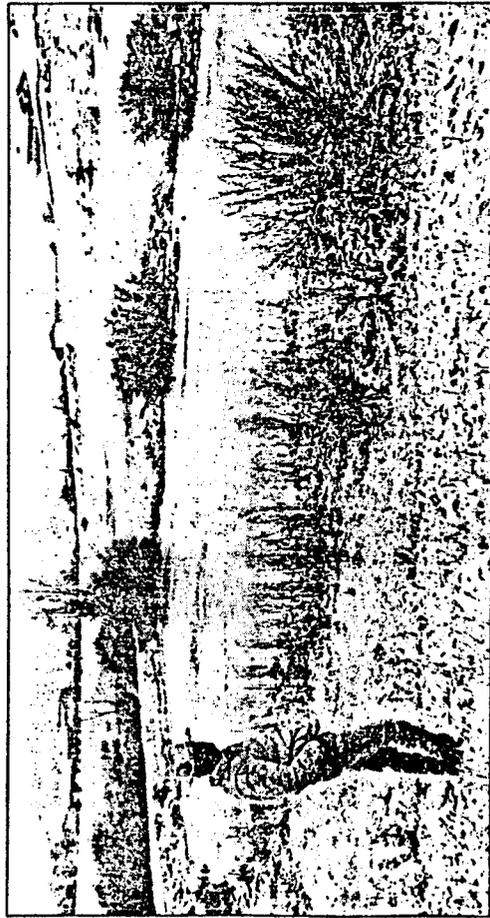
In the early 1950s, the Lewistown Area Chamber of Commerce purchased 42 acres of land from the late Charles Cooley as a site for the Montana Center for the Aged. Ultimately, the center used only eight of those acres, but the rest remained with the state Department of Institutions.

After the state home opened, the ponds were stocked with fish and designated as a place where older people and children under 12 could fish.

But with the years, the ponds were not maintained and they deteriorated.

"They have become silted in and are just worn out," Grinde said.

Grinde's dream is to restore the ponds and make other improvements around them, such as building walkways. He envisions a place where people can go to enjoy the natural beauty of the area, do a little fishing or just get away from the busy work day for a while.



ROBERTA DONOVAN PHOTO

Larry Grinde looks over the pond area he is pushing to have improved and preserved.

Grinde, a Republican state representative, first became aware of the potential of the ponds when he was trying to have Lewistown approved as the site for a new veterans' home.

At that time, Lewistown was offering a site adjacent to the Center for the Aged, including the ponds. Grinde said that the Department of Institutions had indicated a willingness to deed the land back for

that purpose. Since Lewistown was not selected as the site, that plan did not materialize.

"But good things can come from loss," Grinde said. "Even though we didn't get the veterans' home, we (Lewistown people) are a winner because we took the time and effort to see this project through and as a result these ponds will become a reality."

"We want to leave it in its natural state. The birds are tremendous through here. I have even seen deer tracks down there and there are muskrats. That's amazing in the middle of Lewistown."

— Larry Grinde

study and indicated that they were interested. Then they brought in their engineering team and they gave us some preliminary planning on it and what they would recommend. Then, about four weeks ago, another gentleman came in and we talked finances on how we would handle it."

Grinde said there are different ways to do it. "We could do it under the auspices of the Fish, Wildlife and Parks," he said. "They would do it themselves and run it. Or we could use grant money and they would do all of the work. The city council will have to decide. The city's matching funds would be 'in kind' services, such as maintenance of the area and picking up the garbage."

"The grant," Grinde continued, "would come out of the FWP monies. The money is from licenses and is earmarked for projects like this."

Grinde said at this point he went to the Lewistown City Council and told them what he had in mind.

"I asked for their permission to

pursue it further," he said. "They said it was fine, but they asked that they not be committed."

Grinde said the Department of Institutions would be glad to give the city a 99-year lease on the land, but he personally feels it would be better if the city had title to the land.

"So now the red tape really starts coming into play," Grinde said. "It is part of the system. The Department of Institutions cannot give land away. It has to be put up for the highest bidder. That would create some problems because the city would not be guaranteed it is getting the land."

Grinde said the FWP is eager to go ahead with the project, but nothing can be done until the city either has a lease or has title to the land.

"We are looking at some avenues," he said.

"We may draft some legislation for the next session that would provide that if a municipality has a need

See GRINDE, 2C

...Grinde, department director, said the meetings are to tell citizens about legal principles involved in allowing public access to land leased to raise money for public schools. The meetings were authorized by the state Land Board after it decided to consider allowing recreational use of lands.

Grinde: Pushing 'wild' dream

FROM IC

for the land, it can be given back to them.

"Meanwhile, the Fish, Wildlife and Parks will go ahead with getting an appropriation in their next budget," Grinde said. "There will be money appropriated to do these ponds. The amount is yet undecided because they have to do some more engineering."

Grinde said the budget proposal for the ponds has to be approved by the Legislature, "but I see no reason why it shouldn't be approved."

"It is not a new tax," he explained. "It is money allocated through fishing licenses that is already earmarked for this kind of project. I look for it to be approved by the Legislature and if that is the case, I look for the ground breaking to take place next spring and the work to be done by the end of the summer of 1991. That way, in the spring of 1992, the ponds should refill themselves."

The FWP has recommended that the area be accessible to the handicapped.

"They plan approximately five different fishing docks," Grinde said. "There will be restrooms and there may be picnic tables."

The ponds, located in a little valley, do not have vehicle access, but there are walkways leading down to them. These will be improved and more walks added. The emphasis, though, will be on the natural beauty of the area, where wild trees and bushes circle the ponds.

"We want to leave it in its natural state," Grinde said. "The birds are tremendous through here. I have even seen deer tracks down there and there are muskrats. That's amazing in the middle of Lewistown."

The ponds themselves will be deepened and cleared of debris. The FWP has agreed to stock the ponds

for fishing, he said.

Grinde said he can foresee many benefits from the project. He would like to see the area once more be a place where children could play and be off the streets.

"I envision an annual fish derby," he said. "Maybe we could have one for youth and one for the elderly. I look at it as a place where people can go for some solitude in the city and to watch the wildlife."

"I hope that sometime a tourist may come through and go down there, and when he leaves, he will go back to his community and tell the people what Lewistown has got in the middle of their town."

Grinde said the next step is up to the city council. He emphasized that any decision will be up to them.

"I'll go back and give them my findings, so they can decide which direction they want to go," he said. "I'm just doing the leg work. They may decide they want to take the 99-year lease or they may want to wait until after the session and get the land deeded back to the city. Either way, that's fine. The city is the authority here and not me. But I do think it will become a reality."

SEMINAR Arthritis-Medication

2 Perspectives by
John Woon, Pharmacist
and

Dr. Steve Aikre

May 31 • 7 p.m.

DEACONESS DUFRENSE
AUDITORIUM

Sponsored by The Arthritis Foundation

Get Smart!



SENATE STATE ADMIN.
EXHIBIT NO. 4
DATE 3-20-91
BILL NO. H 13535

COMMON CAUSE TESTIMONY IN SUPPORT
OF HOUSE BILL 535
20 MARCH 1991

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

Madame Chairwoman, members of the Senate State Administration Committee. For the record my name is C.B. Pearson, Executive Director of Common Cause/Montana. On behalf of our members, I am here today to speak in support of HB 535.

The complaint and enforcement process exists to benefit all citizens, candidates, constituents and private interests alike. It is one way to ensure fair and honest campaign practices in Montana. A provision for a "citizen action" or allowing a citizen to have standing to enforce Montana's campaign laws is clearly consistent with this goal and sorely lacking in current law.

Presently, as you may know, only the Commissioner of Political Practices or the county attorney may take action on a complaint regarding a violation of Montana's campaign law. Unlike so many areas of American government, there is no safety valve, no check, on the authorized activities of these officials in this area. Citizen enforcement is a natural extension of the theory of checks and balances upon which our political system rests. The construct of checks and balances was intended to assure the American people

that mandated duties would be fulfilled with the public interest foremost in the minds of our elected officials. In this case public interest can be defined as timely resolution of citizen concerns with violations of Montana's campaign laws.

While Common Cause/Montana believes a majority of complaints are addressed in a timely manner there are, however, no assurances. More and more in a variety of government sectors, we empower citizens to enforce compliance with laws if government fails to act.

As a part of the Lobbying Disclosure Act, a citizen enforcement provision called a "citizen action" was passed by initiative in 1980 by a margin of three to one. Clearly this shows the interest of the people of Montana in securing a voice, if necessary, in the enforcement of campaign related laws. This provision has neither been used nor abused during this ten year period. Rather it is a "check" that exists for use only in cases of neglect or abuse of official responsibilities or when there are insufficient resources. Fortunately the political climate today in Montana has not required such action.

Nine other states currently provide standing for citizens to enforce campaign laws. Those states include Utah, Nebraska, Pennsylvania, Wisconsin, Hawaii, Massachusetts, Missouri, North Carolina and California. While the process varies from state to state the intent of these provisions remains constant. The legislators in each of these states have, in enacting this piece of legislation, demonstrated their confidence in the judgement of their constituents.

The initial concern probably arises that this provision may encourage reckless or frivolous civil suits. However, this will not be the case. A citizen must notify, in writing, the Commissioner or appropriate county attorney that there is reason to believe that provisions of Montana's campaign laws have been violated. At that point, the Commissioner or county attorney has 50 days to take action or dismiss the complaint. If a citizen decides to initiate a legal action, trial fees and attorney costs shall be borne by the citizen should the case either be dismissed ^{AND} ~~or~~ found to have been brought without reasonable cause.

The role of the citizen in Montana politics is considerable as evidenced by the very make up of this legislature. By supporting this citizen action bill, the Legislature can assure the rest of Montana's citizens that their concerns, regarding violations of Montana's campaign laws, are a priority, that they will be addressed, and that they will be resolved.

We are entering a new era in Montana politics, a time of more activity and questioning of campaigns. This new era deserves strong enforcement provisions. We urge a do pass for HB 535.

Amendments to House Bill No. 472
Reference BillRequested by Sen. Van Valkenburg
For the Committee of the WholePrepared by David S. Niss
March 14, 1991

1. Page 2.

Following: line 19

Insert: "(4) "Quasi-judicial capacity" means acting as a person charged with rendering a decision or making findings of fact or conclusions of law in a contested case as defined in 2-4-102."

Renumber: subsequent subsections

2. Page 2, line 20.

Following: "±"

Insert: ":"

3. Page 2, line 21.

Following: "~~(A)~~"

Insert: "(a)"

4. Page 3, line 6.

Strike: "."

Insert: ";"

(b) the practice of promoting or opposing the submission of proposed legislation by a public official or by agencies of the executive branch of state government to the governor or to the legislature;

(c) the practice of promoting or opposing the adoption of an administrative rule as defined by 2-4-102 by an agency of the executive branch of state government pursuant to the Montana administrative procedure act; and

(d) the practice of promoting or opposing any other official action by a public official.

**MATOVICH,
ADDY & KELLER, P.C.**

Attorneys at Law

March 19, 1991

Sen. Eleanor L. Vaughn
Montana State Senate
Capitol Station
Helena, Montana 59620

SENATE STATE ADMIN.

EXHIBIT NO. 6

DATE 3-20-91

BILL NO. HB 535

Dear Sen. Vaughn:

I am writing to you in support of HB 535 sponsored by Representative Toole which would allow citizens to proceed directly to court with campaign practices complaints if the Commissioner of Campaign Practices and the County Attorney both fail to act within 50 days. I understand this bill will be heard in your Committee tomorrow, March 20, 1991. I cannot be there, so I am sending this letter as my testimony.

I have filed complaints regarding state campaign practices violations committed by the Burns campaign, the Stephens-Kolstad campaign and the Montana Republican Party in 1988.

The violations were so blatant and so widespread that one can reasonably conclude they were part of a deliberate, conscious decision, made at the Republic National Committee level, to conduct their party's 1988 Montana campaigns in a manner which is completely outside the clearly established bounds of the law. When asked about these charges, they have evaded any response on the merits.

Since these charges have been pending, the Montana Office of Campaign Practices has failed to conduct an investigation or move in any decisive way to secure and safeguard documentary evidence of these massive violations of our campaign laws. I enclose a copy of my letter of March 11th to the Commissioner of Political Practices which once again underlined the urgency of the matter. I have received no reply at all.

This case is unique in that a witness to the events, Terry Merica, has told us exactly what documents he has and has explained to us their significance. While the office has clear statutory authority to compel production of these documents, I am unaware of a single step that has been taken to obtain them.

The three-year period for which these parties are required to keep their records is about to expire. Pointing out that fact, and underlining other testimonial evidence that is becoming harder and harder to obtain each day still brings no response.

The Commissioner's Office is understaffed and overworked. The resources which the State of Montana has committed to this

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Sen. Eleanor L. Vaughn
March 19, 1991
Page 2

important watchdog function are no match for the resources available to a well-coordinated money-changing operation that is spread out from coast to coast. The Commissioner has decided not to ask for any more resources for the next two years than she has had available to her for the last two years, so it looks like there is very little likelihood that the situation will improve in that sector.

This means that direct citizen action is the only avenue of relief that can now be explored. I understand that opponents are claiming that this will lead to harassment of elected officials by private citizens. I point out that under Montana's Rules of Civil Procedure, Rule 11 Sanctions can be imposed by the courts on anyone who files a frivolous cause of action. Such sanctions are being imposed in civil actions, by both federal and state courts in Montana, with ever increasing frequency.

I also point out that failure to address this problem will in itself be a damning indictment of the integrity of Montana elections. Just look at the facts: A man who was there on the scenes at Republican State Headquarters says massive violations occurred. He says that the documents are in the offices of his attorneys in Bozeman and he gives the names and addresses of the people who participated, or who have knowledge of, those violations. Our Commissioner of Political Practices declines to act until she has a formal complaint. After a formal complaint is filed, her office still does not act.

The legislature has now been asked to give citizens the right to proceed directly in such matters. What is the public to conclude if our legislators say no? Even if they say yes, the outcome is far from a sure thing. Hours of difficult work in a highly charged setting will have to be performed before sanctions can be imposed for wrongful conduct which occurred almost three years ago now.

The Bill before your Committee does not decide the matter one way or another, it merely gives the public assurance that someone will have an opportunity to have the matter decided in the courts of our State. Inaction tells the national organizations of the Republican and Democratic Party alike that Montana is wide open.

On November 8, 1988, Ward Shanahan, who was then the General Counsel to the Montana Republican Party, pointed out what a pain in the neck such practices can be to all Montanans. In a memorandum to the Montana Republican Party, he described National Republican Party influence in Montana:

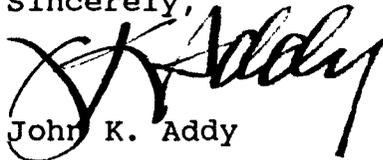
Sen. Eleanor L. Vaughn
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A great strain is created by financial shenanigans of these national committees. The people running this end of the national committees are rude, insulting to the state office staff, they take advantage of confusion, often misrepresent the facts and would have, I believe, if we hadn't stopped them, committed serious breaches of state and federal law. They routinely attempt to incur expenditures in the name of the Montana Republican Party or the state Republican Central Committee, without the knowledge of the chairman, the state treasurer, or the executive director. Despite this kind of chicanery the executive director and the state chairman are expected to "go along" in the interest of party loyalty, without any assurance that they won't become the official "sack holders." It remains to be seen upon audit, how we will fare this year.

Montanans want less of such "shenanigans", not more. Unless we find a way, such as HB 535, to break the campaign practices enforcement logjam, we are going to get more of such "chicanery," not less.

Please give this measure your serious consideration and your approval.

Sincerely,



John K. Addy

JKA/rm

Enc: Copy of Mr. Addy's 3/11/91 letter to Hon. Colberg

EXHIBIT NO. 7
DATE 3-20-91
BILL NO. HB 535

**MATOVICH,
ADDY & KELLER, P.C.**

Attorneys at Law

March 11, 1991

Hon. Dolores Colberg
Commissioner of Political Practices
Capitol Station
1205 East 8th Avenue
Helena, Montana 59620

Dear Commissioner Colberg:

On September 4, 1990, I filed a complaint with you against the Montana State Republican Party, the Stevens-Kolstad campaign, Montana Republican Party Chairman Barbara Campbell and others. That letter of complaint stressed the need to move with dispatch to obtain, and make public, relevant documents that should be disclosed, especially those explicitly referred to in the Mericas' First Amended Complaint.

I have also advised you by telephone since that time that Michele Davis, who was the Executive Director of the Republican Governor's Association on October 28, 1988, would be leaving that position on February 1, 1991, and would be "traveling". She wrote to Barbara Campbell and specifically requested on that date, that their contribution to the Montana Republican Party be reported in the name of the Republican National Committee. In our conversations, I stressed the need to take a formal statement from Ms. Davis prior to the time that she became predictably unavailable.

I also note at this point that the various respondents may only be required to keep their records for three years after the date they are generated by the various respondent individuals and organizations. That three year period will expire this year.

Once again the need to move promptly and decisively is underscored. Failure to act now would be a green light to individuals who are tempted in the future to abuse the integrity of the electoral process in Montana.

Can you advise me as to the status of your investigation? I would appreciate your assurances that this very serious matter will be resolved in an impartial, prompt and business like manner. Many thanks for your prompt reply.

Sincerely,

John K. Addy

JKA/rm
cc: Mike McGrath

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