

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 14, 1977

The meeting of the Senate Committee on Judiciary was called to order by Chairman Turnage at 9:30 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present at this meeting.

CONSIDERATION OF SENATE BILL 37:

Chairman Turnage placed Senate Bill 37 before the committee to be considered first and requested Roger Tippy, attorney for the Legislative Council, to make the initial presentation on this bill. S.B. 37 has to do with the Montana Administrative Code rules. Mr. Tippy explained to the committee that the Administrative Code Committee felt this bill was necessary because there is constant bickering about the intent of legislation.

Senator Roskie, District 21, co-sponsor of S.B. 37, spoke briefly on the bill, saying that the bill had been written because there should be more expression of intent on legislation.

At this time, Chairman Turnage told the committee, that it had been brought to the attention of the Rules Committee that this bill would place an additional burden on the Journal because of lengthy typing. Mr. Tippy said that this matter had been taken care of by the drafting of a revised rule for the Rules Committee regarding the typing of the legislative intent.

Steve Williams, attorney for the Anaconda Company, appeared in support of S.B. 37, stating that he believes there should be a controlling body over the many regulations of the state and that it should be the legislature. Mr. Williams proposed to add a new paragraph to S.B. 37 which would help people going before state agencies by cutting down the number of court actions necessary. (See attachment #1)

Bob Biggerstaff, representing the Montana Association of Conservation Districts, said that they support S.B. 37, as did Glen Drake who represents the League of Cities and Towns. Mr. Drake noted that cities and towns are greatly affected by administrative rules and, therefore, his association fully supports this bill.

There being no more proponents of S.B. 37, the Chairman called for the opponents to testify on this bill. The first opponent was Robert Lohn, staff attorney for Governor Judge, who said they support the statement of intent, but that they are afraid that it will lead to a new set of "laws of intent" and that the state has too many laws now, such as the Revised Codes of Montana and the Montana Administrative Codes.

The next opponent appearing was Mike Young, general counsel for the Department of Administration, who told the committee that what this bill is trying to do is actually already in the law. He further said that section 5 of S.B. 37 violates the law of exhausting administrative remedies.

Robert Corcoran, counsel with the Department of Revenue, an opponent of S.B. 37, told the committee that the problems the Department of Revenue have are enormous, because of the many different types of taxation laws they administer. Further, he stated that also because of this, the Department of Revenue writes a great amount of regulations -- more than any other state agency. He supported Mr. Lohn's testimony fully.

At this time, there being no more witnesses on S.B. 37, the Chairman thanked those presenting testimony.

CONSIDERATION OF SENATE BILL 27:

Larry Weinberg, attorney with the Legislative Council, was next called upon to explain S.B. 27. However, it was suggested that there might be some witnesses on this bill present who wished to speak. Mike Pichette, Montana Democratic Party, a member of the advisory committee to the Commissioner on Campaign Finances and Practices, told the committee that they support S.B. 27. Chairman Turnage asked Mr. Pichette if he had any testimony to offer on S.B. 33 which is a companion bill. Mr. Pichette offered the committee two amendments for S.B. 33, one concerned section 1 and the other was on section 22. (See attachments 2 and 3) Sen. Roberts asked if the second amendment offered was in the nature of recodification. Mr. Pichette said that it was.

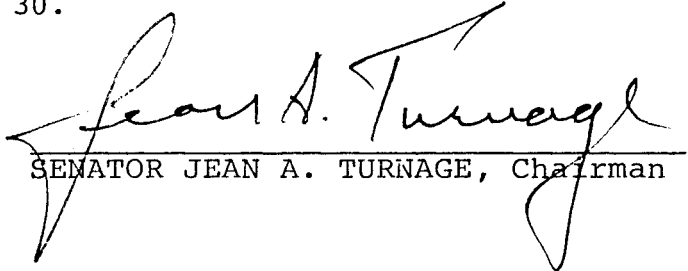
✓ Marion Campbell of the Secretary of State's office asked that the committee note that, on page 6 of the green sheets attached to S.B. 33, section 23-47-53 is to be repealed. This section now prohibits advertising on election day. Upon reading the section referred to, Senators Regan and Warden expressed the belief that this was a substantive change. Mr. Weinberg said that he believes ✓ it is. At this time he was complimented by Mr. Pichette on the herculon job he had done on S.B. 27 and 33. —

The committee then returned to consideration of S.B. 33 with Mr. Weinberg explaining it section by section. After he had reviewed section 2, the committee discussed the substantive changes being made -- which they believed necessary for good legislation -- and decided that this bill should not be brought out as a recodification bill.

Senator Towe moved to amend the title on page 1, line 4, after the word "GENERALLY" by inserting the words "AND SUBSTANTIVELY". The motion carried unanimously.

Mr. Weinberg then proceeded with the explanation of sections 3, 4 and 5. At this time Senator Blaylock, sponsor of S.B. 27 and 33, appeared in committee, and Chairman Turnage explained to him that the committee had made S.B. 33 a general bill rather than treat it as a recodification bill. (Senator Blaylock agreed with the committee's decision on S.B. 33.)

Time being exhausted for this meeting, the committee adjourned at 11:05 a.m. to reconvene at 9:30 a.m. on Saturday, January 15, 1977, to consider S.B. 34 and 30.


SENATOR JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date

11/14/77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret	✓		

Each day attach to minutes.

DATE 1-14-77

COMMITTEE ON Indicars

BILL NO. *SB. 21.33*

Please mark for me:

[illegible]

(Please leave prepared statement with Secretary)

Amend Section 82-4204, R.C.M. 1947, to add a new paragraph providing as follows:

"Before engaging in further rule making, amending or repeal procedures authorized under this section, obtain an affirmative opinion from the Attorney General that the proposed rule to be adopted or amended or the proposed rule repeal is constitutional, both federal and statewise, and is not in conflict with existing statutes of the state of Montana. A complete and exact transcript of any proposed rule to be adopted, or of any proposed rule amendment, or a detailed statement of reasons for any proposed rule repeal shall be submitted to the Attorney General for review and opinion. Only those proposed rules, rule amendments or proposed rule repeals which bear an affirmative opinion by the Attorney General as to their constitutionality, both Federal and Montana, and absence of conflict with existing Montana statutes, which affirmation shall appear on all subsequent notices relevant to the proposed adoption, amendment or repeal, shall be eligible for further application of the provisions of this Section 82-4204, specifically (1) - (b) and (c), (2), (3), (4), (5) and (6)."

(Attachment #1)

Senate Judiciary Committee
January 14, 1977

S.B. 33

Amend S.B. 33, Section 1, subsection (2), lines 14-16 by
deleting all material after the comma in line 14 and
substitute in lieu thereof the following:

any action brought pursuant to the provisions
of Title 23 and Title 37 must be commenced
within 4 years after the date when the viola-
tion occurred.

* * * * *

This amendment would reinstate the current statute of
limitations (4 years) on election law violations from
23-4793(5) and delete the proposed one-year statute of
limitations.

Amendment offered and approved by the Advisory Committee to
the Commissioner of Campaign Finances and Practices.

Testimony by J. Michael Pichette
Box 802, Helena Mt.

(Attachment #2)

Senate Judiciary Committee
January 14, 1977

S.B. 33

Amend S.B.33, Section 22, line 19 by deleting the word "or"
and substituting in its place a comma and after the word
"voting," and before the word "may" adding the following:

or to vote for or against any particular
candidate, political party ticket, or
ballot issue,

* * * * *

This amendment would restore language from 23-4745, the
"treating" statute which will be repealed by S.B. 33. The
effect will be to restore the prohibition against using
illegal influence to induce a voter not only to vote or not
vote, but to vote for or against specific candidates,
parties or ballot issues.

Amendment offered and approved by the Advisory Committee to
the Commissioner of Campaign Finances and Practices.

Testimony by J. Michael Pichette
Box 802, Helena Mt.

(Attachment #3)