

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

January 24, 1979

The ninth meeting of the State Administration Committee was called to order by Vice Chairman George Roskie at 10:00 A. M. in Room 442 of the State Capitol on the above date.

ROLL CALL: All members of the Committee were present, with Sen. Story being late due to a prior meeting schedule.

CONSIDERATION OF SENATE BILL No. 146: The Acting Chairman called on Sen. Cornie Thiessen, Senate District 27, Lambert, sponsor of the Bill, to present his testimony.

Sen. Thiessen advised this was introduced at the request of the Dept. of State Lands on the recommendation of the Legislative Audit Committee. It would require that the State Lands Dept. would set up a system of keeping track of real property handled by the various state agencies. There has been demonstrated a definite need to have a central index where state lands and ownership could be located. The state had run into a problem on construction of a building in the capitol complex which pointed out the need for a readily-accessable place to find where filed on state tracts are kept. The State Administration Dept. felt that the Land Commissioners was the proper place to have the state indexing system to do this.

Further proponents were called for by the Acting Chairman.

Leo Berry, Director, State Lands Dept., stated this proposal was the result of an audit on another state agency and was suggested that this type of index be set up where his agency could handle it. He was willing to cooperate in any manner necessary to set up such an index program as it would only be a matter of assigning one of this people to handle the project.

John Northey, Attorney, Legislative Auditor's office, supporting the Bill, testified they had noted the problem of incomplete state records on land ownership and that it was a continuing problem. At the present time, the Bill does not call for any additional FTE's, only some file cabinets and office supplies.

James Beck, Dept. of Highways, wanted to be on record as in favor of the Bill.

There being no opponents to the Bill, questions from the Committee were called for.

Sen. Brown inquired if it was necessary to have a statute to require this to be done, to which Mr. Berry responded that there was presently nothing that requires a central index or place where other state agencies kept records of land ownership, and this would require them to notify the State Land Dept. of any land acquired or disposed of or in which they acquired an interest. Continuing his questioning, Sen. Brown asked why a law should be made if the state agencies could do this already. Mr. Berry stated that there was

some conflict with other agencies and bureaus not cooperating in doing this. Sen. Thiessen added he thought this should be done to require them to keep this type of record current.

Sen. Roskie asked about an executive order to take care of it, to which Mr. Berry replied there are some offices which are not under the executive branch that would not be subject to executive order.

Sen. Ryan questioned the representative of the State Highways on leasehold rights, to which Mr. Beck replied that when they are constructing a highway and they must trespass on the landowner's land for a temporary period of time, they negotiate a lease; this expires at the time the construction is completed. At the time of any disposal of land, they would notify the State Land Dept. He felt they were in agreement on this Bill and that the Highway Dept. was excluded because of the volume of land handled each year, including rights-of-way, etc.

Responding to Sen. Roskie's question, Mr. Berry stated it would pertain to other state agencies as the Land Dept. already had files and records on its own transactions, but they don't know about other agencies as the titles remain with the Secretary of State's office or the particular agency involved. He also affirmed that he could handle this project without hiring more people.

There being no further questions, the hearing on Senate Bill No. 146 was closed.

CONSIDERATION OF SENATE BILL No. 107: Vice Chairman Roskie called on Sen. Lloyd Lockrem, Senate District 32, Billings, to present his testimony as sponsor of the Bill.

Sen. Lockrem testified that he felt the vacancy occurring among district court judges should be filled by a different method of appointment. Presently, the judicial nomination commission which contains two attorneys lists persons appointed by the Governor and then the final decision is made by the Governor, which makes a mockery of the system; it is totally controlled by the governor. He then reviewed an article appearing in the "American Bar Journal" authored by Adeli Stevenson which addressed the problem on the federal level. Because of the reluctance of a person to run against an incumbent, a lifetime appointment system is actually what it amounts to. He proposed a change to the legislature appointment system, whereby two Republicans, 2 Democrats and the representative of the judicial branch would select a list of three persons to submit to the governor for his final choice. This would allow a choice from both political parties.

There being no further proponents, opponents were called for.

Joe Roberts, attorney for the Governor, opposing the Bill, stated his main purpose was to find out why the system should be changed. There were no representatives from the Judicial Nomination Commission present. He felt the present system had worked adequately in the past and they had covered the political spectrum. The

author of the article referred to he felt was questioning any type of nomination commission. He felt the issue of separation of powers and judicial discretion in appointments should be considered as possible constitutional issues if the system were to be changed.

Margaret Davis, League of Women Voters, commented that under the present system the Senate does approve or reject governor appointments.

In closing, Sen. Lockrem added that the Journal article pointed out that the nominating commission had problems in finding qualified attorneys to serve in the judgeships as the good ones did not want to give up a lucrative private practice for less salary. He felt there would be more substance to these appointments if all three branches were involved in the selection process.

Sen. Brown questioned how it came about if the appointments were made solely by the governor without any nomination process at one time, that there now is a nomination commission set up. Sen. Lockrem replied that was by constitutional mandate.

Sen. Jergeson brought out the question of the possible violation of constitution problem as the selection of the commissioner of campaign practices was by the legislature instead of the governor, and that is under question. Mr. Roberts agreed this was probably in violation of the constitution and would have to be dealt with. He also felt if water court judges were appointed in any other manner, it could lead to a constitutional problem and breach of separation of powers. The legislature does not tell the governor what to do.

To clarify Sen. Brown's inquiry, Sen. Lockrem stated that his Bill provides for participation by all three branches of government, instead of just controlled by the executive.

Sen. Roskie asked if the law required the governor to pick from the list submitted by the commission, to which Mr. Robert answered that if the governor failed to select someone from that list within 30 days, the chief justice of the Supreme Court makes a selection from that list.

Sen. Story commented that what is in the best public interests is that the judicial branch be free from any pressure by any special interest group in order to properly function; he felt that these judges are perceived by the public as very non-partisan.

Sen. Ryan commented that he did not think a person could be a member of a political party all his life and then wash his hands of any affiliation just because he was supposed to be non-partisan.

There being no further questions on Senate Bill No. 107, the hearing was closed.

CONSIDERATION OF SENATE BILL No. 144: Sen. Story assuming the Chair, he called on Sen. Fred Van Valkenberg, Senate District 50, Missoula, sponsor of the Bill, to present this testimony.

Sen. Van Valkenburg advised this Bill was introduced at the request of the Board of Housing and would give the Board additional authority to enter into a resolution with bondholders that they would guarantee personnel to provide services on the bonds which have been purchased from the Board of Housing. In addition, it amends the statute with respect to the Dept. of Administration providing staff for the Board to the effect that the Board, in conjunction with the Dept. of Administration, will provide the necessary staff to carry out the Board's programs in issuing these bonds in compliance with the state pay plan - the Board did not set pay schedules. These personnel would be paid through the funds derived through the sale of the bonds, not tax money. The need for this comes because the purchasers of these bonds required assurance there would be someone to service these bonds.

Further proponents were called on.

Bill Groff, Director, Board of Housing, in support of the Bill, restated that bond holders required the assurance of adequate staff in the future to handle bonds and that it would help the rating back in New York on selling the bonds. He added that the Dept. of Administration also agrees with this legislation.

John Oitzinger, representing the New York law firm of Willkie, Farr & Gallagher, supporting the Bill, testified that they are involved with many state financing institutions in the western states. What bond holders look for is that the backing with adequate staff is provided. It is one of the most important elements they look at when considering bond purchases.

There being no opponents appearing to testify, closing statement was waived, and the hearing was opened for questions by the Committee.

In response to Sen. Rasmussen's question, Lyle Olson, Board of Housing, responded that this would not change any operations in their office. A Fiscal Note should have accompanied the Bill to show the fiscal impact. It just provides some additional authority to the Board in case they would want to change the department handling this.

Sen. Roskie questioned if the Board would hire their staff according to the state pay plan, to which Mr. Olson answered they would hire their own staff under the plan, and Mr. Groff stated they would not go around the plan in any hiring.

Replying to Sen. Story's inquiry, Mr. Oitzinger stated their only concern was with the Board of Housing; he dealt through them on any matters regarding the bond issues.

There being no further questions, the hearing on Senate Bill No. 144 was closed.

DISPOSITION OF SENATE BILL No. 146: Sen. Tom Rasmussen moved that

Senate Bill No. 146 DO PASS.

Sen. Ryan commented that they would set up a master plan in the State Lands Dept. with a duplicate in the other state agencies with this Bill, to which Sen. Jergeson responded that the other state agencies do not keep very good records, but this would insure some consistency in record keeping and disagreed that the Bill should be amended to include the Highway Dept. since it was purposely left out.

Sen. Brown felt they should be able to do this without a government edict, but Sen. Story recalled that the various other agencies held their own deeds. Sen. Jergeson added that regarding the problem with following an executive order, that some of the state agencies, such as the Fish & Game, seem to have some amount of autonomy.

Upon roll call vote, the motion carried by unanimous vote.

DISPOSITION OF SENATE BILL No. 144: Sen. Greg Jergeson moved that Senate Bill No. 144 DO PASS; motion carried by unanimous vote.

DISPOSITION OF SENATE BILL No. 107: Sen. Brown commented that he didn't feel the House had any place making a nomination for a judgeship and only recently has there been any type of input into these appointments and didn't see where this Bill would clarify anything.

Sen. Story commented that the important issue is to get a strictly impartial judicial branch.

Sen. Jergeson felt that if this was to apply to the non-partisan issue, that the current set-up on the commission has probably done as much as possible toward that, and on the appointment process, the Senate has the ratification process.

Sen. Roskie stated that the Senate has nothing to do with the commission appointees; the only place the Senate comes into it is on the approval process.

Sen. Story commented that the Committee should consider this in the light of what is the worst that could happen, not what the best would do. They should consider what could result from an abuse and thought this was a mechanism for someone who is selected to go off the deep end and we could prevent that by having two people from each major party making these selections in a check and balance system.

Sen. Roskie did not see where appointment under the present statute would be any better than under the proposed system, to which Sen. Story commented that under the reorganization process, a strong executive branch was set up. He did not agree with the direction some of these department heads were taking and that the judicial nominations should be non-political and unprejudiced.

After further discussion on the merits of the Bill, question was called for.

Sen. Rasmussen moved that Senate Bill No. 107 DO PASS; motion failed, with Senators Brown, Ryan, Jergeson and Hafferman voting "no".

After further discussion, Sen. Jergeson moved that Senate Bill No. 107 DO NOT PASS, which motion carried by majority vote, with Senators Story, Roskie and Rasmussen voting "no".

Discussion on how to put out the Standing Committee Report on this Bill was held as it was decided to send out a majority and minority report. The secretary will prepare the reports in proper form.

FURTHER CONSIDERATION OF SENATE BILL No. 116: Sen. Jergeson stated his suggestion of a letter of intent was not the proper way to proceed on this he had been informed. He then moved that Senate Bill No. 116 be amended on page 1, line 5, in the title. Following "TO", strike: "ABOLISH" and insert: "REMOVE STATUTORY REFERENCE TO". Motion carried by unanimous vote. This, he felt, would take the commission out of the law as they are appointed by the dean of the agriculture school.

In objecting, Sen. Bob Brown moved that Senate Bill No. 116 AS AMENDED, DO NOT PASS. Motion carried by majority vote, with Sen. Jergeson voting "no"; amendments are shown on attached Com. Report.

DISPOSITION OF SENATE BILL No. 115: After short discussion, Sen. Greg Jergeson moved that Senate Bill No. 115 DO PASS, which motion passed by unanimous vote.

DISPOSITION OF SENATE BILL No. 114: Sen. Jergeson moved that this Bill be amended on page 1, lines 20 and 21. Following "approve", strike "the location and staffing level of all data processing services", and insert: "the addition of data processing staff".

Some discussion was held on if this would create more red tape in addition to helping to cut some government spending.

Upon the question, the motion to amend passed unanimously.

Sen. Jergeson then moved that Senate Bill No. 114 AS AMENDED, DO PASS as he felt they needed some control over the spending on this. The amount of money involved would warrant taking a good look at the date processing needs of the state. The Dept. of Administration doesn't have the cost control ability that the Dept. of Budget and Program Planning does.

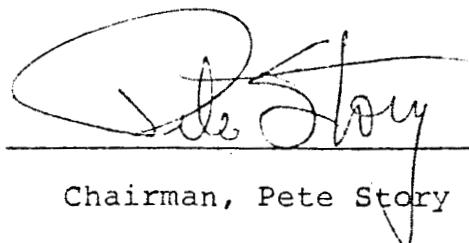
Motion carried by unanimous vote. Amendments are as shown on the copy of the Standing Committee Report which is attached hereto and to which reference is hereby made for further particulars.

Jan. 24, 1979

Sen. Jergeson inquired if there should be a special committee appointed to consider House Bill No. 47, to which Chairman Story responded that he did not think it would be useful at this time.

ADJOURNMENT:

There being no further business to bring before the Committee, the Chairman adjourned the meeting at the hour of 11:45 A. M.



A handwritten signature in black ink, appearing to read "Pete Story". The signature is fluid and cursive, with a large, stylized 'P' at the beginning.

Chairman, Pete Story

Date

Jan. 24. 1979

ROLL CALL

STATE ADMINISTRATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

DATE January 24, 1979

COMMITTEE ON SENATE STATE ADMINISTRATION

SENATE BILLS 144, 146 & 107:

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Col. Van VALKENBURG		SB 1461	✓	
Lyle E. Olson	Board of Housing	✓	✓	
John J. O'RINGER	WILLKIE FARR & GALLAGHER	✓	✓	
Bill Gross	Board of Housing	✓	✓	
Joe Roberts SB 107	Governor	107		✓
Lee Berry	State Lands	146		
Nike Ablay	Supreme Court	107		
William May Jr.	Highway Department	107		
Spikes & Beck	Highways	146	✓	
Clayton Lock	Senate Dist 32	107	✓	
Connie R. Coulombe	Sec. of State	146		
Jeff Thieszen	Author	146	✓	
John W. Matthey	Leg. Auditor	146	✓	

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Jan. 24, 1979 SENATE Bill No. 146 Time

P.C. 5455

Jennie L. Palmer  
Secretary

Pete Story  
Chairman

Motion: Senator TOM RASMUSSEN moved that Senate Bill No. 146  
DO PASS; motion was seconded and carried by  
unanimous vote.

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

January 26, 1979

MR. President

We, your committee on State Administration

having had under consideration S. B. No. 146

Respectfully report as follows: That S. B. No. 146

Introduced Bill,

DO PASS

ROLL CALL VOTE RECORD

SENATE COMMITTEE ON STATE ADMINISTRATION

Date Jan. 24, 1979 SENATE Bill No. 144 Time

Prof. ass

Jennie L. Palmer  
Secretary

Pete Story

Motion: Senator Greg Jergeson moved that Senate Bill  
No. 144 DO PASS; motion was seconded and passed by  
unanimous vote.

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

.....January 26, 1979.....

MR. President.....

We, your committee on State Administration.....

having had under consideration .....SENATE..... Bill No. ....144.....

Respectfully report as follows: That.....SENATE..... Bill No. ....144,....

Introduced Bill,

DO PASS

ROLL CALL VOTE RECORD

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SENATE COMMITTEE STATE ADMINISTRATION

Date Jan. 24, 1979 SENATE Bill No. 107 Time

SENATE Bill No. 107

Time

Dr. Ph. S.

Jennie L. Palmer  
Secretary

Pete Story

Motion: \_\_\_\_\_

(include enough information on motion--put with yellow copy of committee report.)

## ROLL CALL VOTE RECORD

(2)

SENATE COMMITTEE STATE ADMINISTRATIONDate Jan. 24-79 Bill No. 107 Time \_\_\_\_\_

DO NOT PASS

NAME	YES	NO
Senator Pete Story, Chairman		✓
Senator George F. Roskie, V. Chairman		✓
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen		✓
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson (2)	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer  
SecretaryPete Story  
Chairman

Motion: \_\_\_\_\_

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

January 25

19 79

MR. President.....

We, your committee on.....State Administration.....

having had under consideration.....SENATE..... Bill No. 107.....

Respectfully report as follows: That.....SENATE..... Bill No. 107.....

Introduced Bill,

*Bob Brown*

DO PASS DO NOT PASS

*30*

# STANDING COMMITTEE REPORT

.....January 25.....1972.....

MR. ....President.....

We, your committee, the following members of the Committee on State Administration,

having had under consideration .....SENATE... Bill No...107.....

Respectfully report as follows: That.....SENATE... Bill No...107.....

Introduced Bill,

DO PASS

George F. Roskie

A. T. Rasmussen

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Jan. 24, 1979 SENATE Bill No. 116 Time

1. NET POSITION  
not mentioned.

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	✓	
Senator Bob Brown (b)	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson		✓
Senator William F. Hafferman	✓	

Jennie L. Palmer  
Secretary

Pete Story  
Chairman

Motion: Senator Greg Jergeson moved that Senate Bill No. 116 be amended, which motion was unanimously passed, as follows:

1. Title, page 1, line 5. Following: "TO" Strike:  
"ABOLISH" Insert: "REMOVE STATUTORY REFERENCE TO"  
- Senator Bob Brown then moved that Senate Bill No. 116,  
DO NOT PASS AS AMENDED; motion carried by majority vote,  
with Sen. Jergeson voting "no".

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

January 26, 1979

MR. President.....

We, your committee on..... State Administration.....

having had under consideration ..... SENATE Bill No. 116.....

Respectfully report as follows: That ..... SENATE Bill No. 115.....

Introduced Bill, be amended as follows:

1. Title, page 1, line 5.

Following: "TO"

Strike: "ABOLISH"

Insert: "REMOVE STATUTORY PREFERENCE TO"

And, as so amended,

DO PASS

DO NOT PASS

*J.A.*

ROLL CALL VOTE RECORD

SENATE COMMITTEE ON STATE ADMINISTRATION

Date Jan. 24, 1979 SENATE Bill No. 115 Time   
Po 8433

Jennie L. Palmer  
Secretary

Pete Story

Motion: Senator Greg Jergeson moved that Senate Bill  
No. 115 DO PASS; motion was seconded and carried  
by unanimous vote.

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

.....JANUARY 26, 1979.....

MR. ....President.....

We, your committee on .....State Administration.....

having had under consideration .....SENATE..... Bill No. ....115.....

Respectfully report as follows: That .....SENATE..... Bill No. ....115.....

Introduced Bill,

DO PASS

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Jan. 25, 1979 SEANTE Bill No. 114 Time \_\_\_\_\_  
DO PASS AS AMEND.

Jennie L. Palmer  
Secretary

Pete Story  
Chairman

Motion: Senator Greg Jergeson moved that Senate Bill No. 114 be amended, which motion was unanimously passed, as follows:

1. Page 1, lines 20 and 21. Following: "aprove" Strike:  
~~"the location and staffing level of all date processing~~  
services" Insert: "the addition of data processing staff"  
Senator Jergeson then moved that Senate Bill No. 114

DO PASS AS AMENDED; motion carried unanimously.  
(include enough information on motion--put with yellow copy of  
committee report.)

# STANDING COMMITTEE REPORT

January 26, 1973

MR. President

We, your committee on State Administration

having had under consideration SENATE Bill No. 114

Respectfully report as follows: That SENATE Bill No. 114,

Introduced Bill, be amended as follows:

1. Page 1, lines 20 and 21.

Following: "approve"

Strike: "the location and staffing level of all  
data processing services"

Insert: "the addition of data processing staff"

And, as so amended,

DO PASS

*J.A.*

NAME: JOHN J. ORTINGER DATE: 1/24/79

ADDRESS: 153 East 53rd Street, N.Y. N.Y. 10022

PHONE: 212 535-8000

REPRESENTING WHOM? WILLIE FARR & GALLAGHER

APPEARING ON WHICH PROPOSAL: SB 1441

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: BOND HOLDERS NEED THE ASSURANCE

OF AN EXECUTIVE STAFF BEING PROVIDED

THESE SERVICES WILL BE PAID FOR

WITH BONDHOLDER FUND.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.