

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 7 , 1979

The twenty-ninth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink in Room 331 of the Capitol Building on the above date at 5:07 p.m.

ROLL CALL:

All members were present.

DISPOSITION OF SENATE BILL 37:

Senator Towe commented that he does not feel comfortable with this bill and Senate Bill 129. He suggested that the Committee sit on the bills and let the other attorneys look them over during the interim.

Senator Turnage moved that Senate Bill 37 be tabled. The motion carried unanimously.

DISPOSITION OF SENATE BILL 129:

Senator Turnage moved that this bill be tabled. The motion carried unanimously.

DISPOSITION OF SENATE BILL 54:

Senator Towe moved that on page 1, line 19, after "or" the word "temporary" be inserted and on page 2, line 1, after "a" insert "temporary" and on line 6 after "of" insert "temporary" and on page 2, line 8, after "or" insert "temporary" and on page 2, line 16, after "or" insert "temporary". The motion carried unanimously.

Senator Towe moved that the bill be amended by adding a new section to read as follows: Section 3. Note to codifier. In the event that Senate Bill 243 passes, the reference on page 2, line 1 to 27-19-305 should be changed to section 4 of Senate Bill 243. The motion carried unanimously.

Senator Towe moved that this bill do pass, as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 243:

Senator Brown stated that if the Attorney General wants this bill, they should send us a copy as it should read.

Senator Turnage moved that we ask the Attorney General to offer this to the Committee in a readable form. The motion passed.

DISPOSITION OF SENATE BILL 153:

Senator Towe moved that on page 18, line 3, after "copy" insert "of a declaratory ruling". The motion carried unanimously.

Senator Towe moved that this bill be amended on page 4, line 14, and 15 by striking "other than an agency". The motion carried unanimously.

Senator Turnage moved that Senate Bill 153 do pass as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 228:

Senator Turnage moved to amend this bill on page 3, line 3 by inserting "and" and reinsert lines 4, 5, 6 and 7 and to adopt the amendments offered by Joan Mayer from the Legislative Council and on page 2, line 20, delete "shall" and insert "may". The motion carried with Senator Van Valkenburg voting no.

Senator Van Valkenburg stated that parole does provide some control over the activities of the offender after he leaves.

Senator Brown suggested that the Committee get a list of every bill amending these sections and get a report on where they conflict, etc. He felt the Committee should delay action until we get these bills amending these sections.

Senator Van Valkenburg stated that he did not think that it conflicts at all.

Senator Turnage withdrew his motion.

Senator Towe moved on page 2, line 11 strike "shall" and insert "may".

Senator Brown commented that you are fully restating law by changing that now.

Senator Towe withdrew the motion.

Senator Towe moved that the Committee pass consideration on this bill. The motion carried unanimously.

DISPOSITION OF SENATE BILL 223:

Senator Turnage moved that this bill be tabled. The motion carried unanimously.

DISPOSITION OF SENATE BILL 278:

Senator Turnage felt that this would become a horrendous problem for the S.R.S. It was explained that the S.R.S. would keep only a reference list of interpreters, and when a case comes up they could call and get a list of references; they could select one and this would do away with certification.

Senator Brown suggested that maybe if you want to limit their power, that it be put right in the law.

full responsibility for the life of that person. (See written testimony - Exhibit D.)

Joey Lilleman, representing D.D. Council in Great Falls stated that they may be depriving the D.D. of some rights they are capable of assuming, and he felt that rehabilitative services must be tailored to their needs. See written statement - Exhibit #.)

Kathleen Ellis, attorney for the Legal Access For Older Americans, suggested an amendment on page 1, line 20, by stating incapacitated by advanced age. She stated that being old is not necessarily physically incapacitating and that she felt that this was both inaccurate and demeaning to the senior citizen.

Mike Thompson, representing the Veterans Administration at Fort Harrison, stated that as the bill stands now, the agency does not favor enactment. He went over the bill explaining the portions in which he felt there were problems.

John Bell, representing himself, stated that for nine years he has been a duly appointed guardian for a varying number of incapacitated war veteran and he spoke in opposition to this bill.

Senator Van Valkenburg stated that he did not really see anything that will make this bill unworkable. He stated that Mr. Bell's comments were probably not applicable, as you can still have a regular guardianship and if you don't want a limited guardianship, no court is going to force you into one.

Senator Towe questioned Rosemary Zion and asked her if there is a limited guardianship, how do the people know that it is limited. Ms. Zion stated there will be an order and the order will spell this out.

There were no further questions and the hearing on this bill closed.

CONSIDERATION OF SENATE BILL 256:

Senator Lensink turned the chairmanship over to Senator Olson as he was the sponsor of this bill. This bill generally revises the laws relating to statewide ballot issues and was requested by the Secretary of State and the Attorney General. Senator Lensink introduced Mike McGrath from the Attorney General's Office.

Mike McGrath, Assistant Attorney General, stated that there were two things they were hoping to resolve. There were eleven issues on the ballot this time and the Attorney General's Office had six lawsuits just before the election, and there were challenges to the issues on the ballots, issues that did not make the ballot. He also explained that in many of these, the title was self-serving and misleading and they have no authority to do anything about this. He stated that on one petition, which would allow limited gambling, the title read to provide tax relief and the last line said something about gambling.

Minutes - February 7, 1979
Senate Judiciary Committee
Page Four

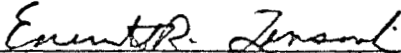
Joanne Woodgerd, representing the Legislative Council, stated that she was here to answer any questions and stated that they have no problems with this bill and with Senate Bill 65.

John Bell, representing the clerks and recorders, stated that they support the bill.

Paul Richards, State Director of Common Cause, submitted testimony. (See Exhibit F.)

There were several questions and the hearing on the meeting was closed.

There being no further business, the meeting adjourned at 11:28 a.m.



SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

Date Feb 2, 1979

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

Date Feb 7, 1979

ROLL CALL

JUDICIARY COMMITTEE

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Lensink, Everett R., Chr. (R)	✓		
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Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

(Handwritten initials)

Please sign & return to Secretary

Medicine

SR 271

SENATE Judiciary COMMITTEE

BILL 256
277
3-2-0

VISITORS' REGISTER

DATE 4/2/78

Please note bill no. (check one)

NAME	REPRESENTING	BILL #	SUPPORT	OPP
<i>Jeannie Anderson</i>				
<i>Don Anken</i>	DD Council	277	✓	
MARGARET UNOSTAD	DD/MT. AGENCY PROG.	277	✓	
<i>Kathleen Ellis</i>	Legal Assoc. for Alaska	277	✓	
<i>Norm Grosfield</i>	Division of Workers' Comp	322	✓	
<i>Jim Murphy</i>	✓	✓	✓	
<i>Ed Ector</i>	OBI/D	271	✓	
<i>John Bell</i>	self	277		✓
<i>Michael D. Thompson</i>	State Admin. Services	277		✓
<i>Hal Q. Harms</i>	Press Assoc	271		
<i>John G. Thomas</i>	BCC	271	✓	
<i>Philip H. Connor</i>	Dept. Justice	271	✓	
<i>A. Lawrence Peterson</i>	Board of Civil Control	271	✓	
<i>W. K. Spivey</i>	Attorney General's Office	271	✓	
<i>Theresa Wood</i>	Mountain Self-Insurers Assn	322	✓	
<i>W. M. Westphal</i>	C. Kamphorn Dist	322	✓	
<i>Joey Lillemoen</i>	DD Council	277	✓	
<i>Mike Nelson</i>	Lee Newspapers	271		
<i>Lawrence R. Jinn</i>	DD/ MAF	277	→	
<i>W. Miller</i>	self		✓	
<i>Mike Carlson</i>	self			
<i>Jean Woodford</i>	Legislative Council	256		
<i>John Bell</i>	Clerks & Recorders	5, 256	✓	
<i>Paul Richards</i>	ALERT (COUNCIL CHAIR)	256		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY *with a hand*

Please sign & return to Secretary's Office

SENATE Justice COMMITTEE

BILL _____

VISITORS' REGISTER

DATE 1/7/79

Please note bill no.

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOS.
<u>Rose Magnusson</u>	<u>Common Cause</u>	<u>256</u>	<u>with signature</u>	
<u>Martin Campbell</u>	<u>Sec. of State</u>	<u>256</u>	<u>/</u>	
<u>Arde Hoban</u>	<u>Secretary of State</u>	<u>256</u>	<u>/</u>	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Exhibit A

M E M O R A N D U M

Statement of Senator John E. Healy
in support of SENATE BILL 322

Since the enactment of the first Workmen's Compensation Act in Montana, the employer's or insurer's responsibility for the payment of benefits has been limited to those specified in the law as amended from time to time. Because the employee had been given the right to benefits irrespective of whether or not he was negligent when the accident occurred, the common law liability of the employer was removed by the Compensation Act and its remedies were made exclusive.

If the injury to the employee was caused by the negligence of a third party, the employee, in addition to his right of compensation from the employer, was permitted by the Act to sue the third party, and the employer was given the right to subrogation for the benefits he paid the employee.

With developments in the product liability law, a relatively new problem for employers has emerged. The injured employee collects compensation. He then sues the manufacturer or seller of the equipment which may have contributed to his injury. The manufacturer or seller of the equipment then sues the employer for the amount sought by the employee on the theory of implied or expressed indemnity. Thus, the employer is confronted with the possibility of not only paying workers' compensation benefits, but also the amount collected by the employee in his action against a third party.

Oregon was confronted with this same problem and to protect the employers in that state from the great potential liability, it enacted an amendment to its law to protect its employers and insurers from such claims by the manufacturers or sellers.

Senate Bill 322 is designed to accomplish the same result in Montana.

*Favorable comment
So far*

STATEMENT OF CHAMPION INTERNATIONAL CORPORATION

IN SUPPORT OF

SENATE BILL 322

Introduced by Senators Healy, Mehrens,
McCallum, Bob Brown and Lowe.

Almost every employer in Montana believes his liability for Workers' Compensation is limited to the benefits described in the law and he is required to carry insurance to provide such benefits to employees who are injured while working for him.

Now, after almost 65 years of uniform interpretation of this limited liability, the employer is about to learn that he may be responsible for damages far greater than the benefits specified in the law.

Here is what is happening. With product liability becoming much more prominent in our jurisprudence, the employee, in addition to his Workers' Compensation benefits, is permitted to sue the third party manufacturer of the equipment involved in his accident for damages because of some defect in the equipment. We have no objection to this. But then what happens? The insurance company who has insured the manufacturer, as a matter of course, sues the employer for the same amount on the theory that the employer did not take all of the precautions he should have, and seeks damages from the employer by way of contribution or indemnity. Of course, the employer has no insurance covering him for this liability which could be very substantial.

To illustrate what could happen, let's take an actual case: One of our employees was badly injured while operating a saw. He immediately qualified for Workers Compensation. He then sued the manufacturer of the saw for \$11 million. Immediately the manufacturer's insurance company, Safeco, sues us for the \$11 million. Shortly the case will be before the Montana Supreme Court on the question of whether we could be liable.

This bill will not affect this case. However, its passage would prevent other employers as well as our company from being subjected to this substantial liability in the future. And it would not deprive any Montana employee from collecting full damages from the manufacturer of faulty equipment.

We urge this committee to approve SB 322 to restore employers in Montana to the limited liability in Workers' Compensation matters which they have known for the past 65 years.

#

Senate Bill No. 271, introduced copy is amended as follows:

1. Page 2, line 18.
Following: "(4)"
Insert: "(a)"

2. Page 3, line 2.
Following: "."
Insert: "(b) Criminal history record information does not include:
(i) records of traffic offenses maintained by the division of motor vehicles within the department of justice; or
(ii) court records."

3. Page 4, line 20.
Following: "(10)"
Insert: "(a)"

4. Page 4, lines 21 through 22.
Strike: "to determine guilt or innocence"

5. Page 4, line 23 through line 2 on page 5.
Following: "termination" on line 23
Strike: line 23 through "postponement."
on line 2, page 5
Insert: ", or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of appellate or collateral review of criminal proceedings, or executive clemency. Criminal proceedings have terminated if a decision has been made not to bring charges or criminal proceedings have been concluded, abandoned, or indefinitely postponed. (b)"

6. Page 5, line 4.
Following: line 3
Strike: "(a)"
Insert: "(i)"
Renumber: subsequent subsections accordingly

7. Page 6, line 1.
Following: "parole."
Insert: "(c) A single arrest of an individual may result in more than one disposition."

8. Page 8, line 25.
Following: "for"
Insert: "a"
Strike: ", "
Insert: offense other than driving while under the
influence of alcohol or drugs, or a"
9. Page 9, line 1.
Strike: "offenses"
Insert: "offense"
10. Page 9, lines 10 through 12.
Following: "inform the" on line 10
Strike: line 10 through line 12 in its entirety
Insert: "originating agency. If it is determined
that the individual has a criminal record,
the state repository shall send the originating
agency a copy of the individual's complete
criminal history record."
11. Page 10, line 3.
Following: "rosters"
Strike: "shall"
Insert: "may"
12. Page 10, lines 18 through 23.
Strike: subsection (2) in its entirety
Insert: "(2) dispositions resulting from formal
proceedings in a court having jurisdiction
in a criminal action against an individual
who has been photographed and fingerprinted
under [section 6] shall be reported to the
originating agency and the state repository
within 15 days. If the dispositions can
readily be collected and reported through
the court system, the dispositions may be
submitted to the state repository by the
administrative office of the courts;"
13. Page 10, lines 24 through 25.
Following: "(3)" on line 24
Strike: "criminal justice agencies authorized
under [section 6]"
Insert: "an originating agency"
14. Page 10, line 25.
Following: "repository"
Insert: "within 30 days"

15. Page 11, line 1.
Strike: "arrests, proceedings, and"
16. Page 11, lines 1 through 3.
Following: "dispositions" on line 1
Strike: line 1 through line 3 in its entirety
Insert: "concerning the termination of criminal proceedings against an individual who has been photographed and fingerprinted under [section 6];"
17. Page 11, line 5.
Following: "repository"
Insert: "within 30 days"
Following: "all"
Strike: "changes in custodial status"
Insert: "dispositions"
18. Page 11, line 6.
Following: "conviction"
Strike: "within 30 days of such changes;"
Insert: "of an individual who has been photographed and fingerprinted under [section 6];"
19. Page 11, line 22.
Following: "shall"
Strike: "promulgate"
Insert: "adopt"
Following: "rules"
Insert: "for criminal justice agencies other than those that are part of the judicial branch of government"
20. Page 11, line 23.
Following: "section."
Insert: "The department of justice may adopt rules for the same purpose for the judicial branch of government if the Montana Supreme Court consents to the rules."
21. Page 12, line 17.
Following: "is"
Strike: "required"
Insert: "authorized"
22. Page 12, line 24.
Following: "record information"
Insert: "that is not public criminal justice information"

23. Page 13, line 1.
Following: "agencies"
Strike: "except"
Insert: "unless:
 (a) the information is disseminated"
24. Page 13, lines 3 through 4.
Following: "20]" on line 3
Strike: line 3 through line 4 in its entirety
Insert: ";
 (b) a district court considers dissemination
 necessary;
 (c) the information is disseminated in
 compliance with [section 13]; or
 (d) the agency receiving the information
 is authorized by law to receive it."
25. Page 16, line 5.
Following: "data"
Strike: "imput"
Insert: "input"
26. Page 18, lines 4 through 5.
Strike: "or transfer to any other person"
27. Page 18, line 6.
Following: "individual"
Insert: "or transfer copies of that information
 to any other person"
28. Page 18, line 18.
Following: "of"
Insert: "copies of"
29. Page 18, line 23.
Following: "transfer"
Insert: "of copies of that information."
30. Page 21, line 14.
Following: "criminal"
Strike: "justice"
Insert: "history record"
Following: "information"
Strike: ",,"

Senate Bill No. 271, introduced copy, is amended
as follows:

Page 21, lines 14 through 15.

Following: "(3)" on line 14

Strike: line 14 through "agencies" on line 15

Insert: " conduct audits of the criminal history
record information systems of a representative
sample of state and local criminal justice
agencies chosen annually on a random basis

Exhibit D

DD / MAP, Inc.

February 7, 1979

TO: Senate Judiciary Committee

FROM: Rosemary Zion, consulting counsel, Developmental Disabilities/
Montana Advocacy Program, Inc. *Rosemary Zion*

RE: S.B. 277, An Act providing for the appointment of a limited
guardian of incapacitated persons

Members of the Judiciary Committee, my name is Rosemary Zion. I am speaking to you on behalf of the Developmental Disabilities/Montana Advocacy Program, Inc., the program established under the Developmental Disabilities Assistance and Bill of Rights Act to advocated the rights of developmentally disabled persons. In the course of our work with developmentally disabled persons and the people who work with them and care about their welfare, DD/MAP has become accutely aware of the need for a limited guardianship law.

Under the present guardianship laws many developmentally disabled persons are subjected to greater restrictions than their condition requires. Countless more are relegated to a legal limbo, technically permitted to control their own affairs, but actually unable to initiate actions to protect their interests, of uncertain capacity to consent to necessary medical procedures. Family members and friends of these people often are reluctant to become the guardian of a developmentally disabled person because they are unwilling to strip that person of all the attributes of capacity and because they are equally reluctant to assume full responsibility for the person's affairs.

Montana is not the only state which has had to face the problem of tailoring the guardianship laws to the needs of developmentally disabled persons of varying degrees of capabilities. A number of other states have looked at this problem and have modified their guardianship laws to permit limited guardianships of incapacitated persons. Such laws exist in Washington state, Texas, Colorado, and other states. Such a law is being proposed in South Dakota. These laws appear to fill the needs of people who suffer from varying degrees of lack of capacity and of the people who would like to help them.

A limited guardianship law merely provides that there are various degrees of guardianships which can be established by the courts from such limited types as those granting the ability to give co-consent to medical treatments to full general guardianships which include the power to generally govern the affairs of the incapacitated person. The degree of guardianship established depends on the kind of guardianship sought in the petition and the degree of disability of the person alleged to be incapacitated. The proposed law is permissive, not restrictive. It does not prohibit the establishment of a general guardianship. It merely permits other lesser degrees of guardianship to be established and specifies that the degree of guardianship created and the attributes of capacity affected must be spelled out in the petition and in the order creating the guardianship.

DD /MAP, Inc. (continued)

The Developmental Disabilities/Montana Advocacy Program has been an active supporter of the establishment of a limited guardianship law in Montana. The present bill before you was drafted with input from DD/MAP staff. The bill derives largely from the law in Washington State, altered to conform to the Uniform Probate Code provisions in effect in Montana.

Upon reviewing the draft of the bill, the Board of Directors of DD/MAP did have one suggestion to make concerning the language of the proposed bill. The bill amends Section 72-5-321, M.C.A.. Part of that amendment, is a proposed subsection (5)(d). Upon consideration, the Board felt that this language might be interpreted to prohibit a guardian from authorizing standard evaluative techniques and psychiatric procedures which would be of benefit or even necessary to a developmentally disabled or mentally ill person. Therefore, to protect the beneficial purposes of that section but to avoid this possibility, the board proposes that the section be rewritten to read as follows:

"(5) Nothing in this chapter shall be construed to allow a general guardian or limited guardian to consent to:
...(d) other psychiatric or mental health procedures which infringe upon any right established by law or arising under the constitutions of the state of Montana or the United States."

With this modification, the Board of Directors of DD/MAP supports this bill as a valuable addition to the laws of Montana affecting developmentally disabled persons and urges that the bill DO PASS.

Thank you.

DEVELOPMENTAL DISABILITIES PLANNING & ADVISORY COUNCIL

1218 East Sixth Avenue, Suite 1, Helena, Montana 59601

406/449-3878

Testimony to Senate Judiciary Committee
February 7, 1979

Mr. Chairman, my name is Mrs. Joey Lillemon. I live in Great Falls and am a member of the State Developmental Disabilities Planning and Advisory Council. I am here to speak, on behalf of the State Council, in favor of Senate Bill 277.

Many parents of developmentally disabled children recognize that their children will not, at age 18, be able to assume all of the responsibilities of adulthood. Often, in such cases, the parents themselves or other close relatives or friends seek guardianship of the handicapped person. Under current law, however, guardianship is an "all-or-nothing" proposition. Regardless of the extent of a handicapped person's need for protection, the guardian assumes total responsibility for that person. The ward may, therefore, be deprived of some rights he or she is capable of exercising.

In the field of developmental disabilities it is a well established principle that habilitation services must be tailored to the individual needs of each client. Limited guardianship as proposed by Senate Bill 277 would similarly allow guardianship arrangements to meet the unique needs of each handicapped person in need of such protection.

The State Developmental Disabilities Council recommends support of Senate Bill 277. Thank you.

Erskine E.

(#) 28



COMMON CAUSE/MONTANA

P.O. Box 822

Helena, Montana 59601

Telephone (406) 442-6959

Sen. Everett Lensink, Chairman
Senate Judiciary Committee
Hearing on S.B. 256 - Statewide Ballot Issues
February 7, 1979

Dear Senator Lensink and Members of the Committee,

Montana Common Cause opposes S.B. 256 in its present form. We do this with some regret: The reasoning behind the bill is sound and many aspects of the bill are definite improvements over present state policy. In particular, we are encouraged by efforts of the Secretary of State and Attorney General to clear up the mess which can happen when challenges are made to ballot proposal wording or form. The system of resolving challenges and the timetables provided are fair for all concerned. The bill's provisions will help straighten out technical and legal difficulties without the confusing process which we have seen in recent ballot issues.

We approve of the provisions of page 8, section 8 which cover the rejection of a ballot form. A specified 5 day review period of the new ballot form by the attorney general is a good step towards preventing unnecessary delaying tactics. Speaking of delay, the committee may want to look at the specified time of 28 days for review by the attorney general and secretary of state (page 3, line 28). Perhaps this time could be shortened to two or three weeks at the most.

We also approve of the concept of placing all ballot issues on the same ballot (pages 15,16, section 16).

But, in addition to these timely corrections of ballot issue procedure, Senate Bill 256 would directly alter and harm the Voter Information Pamphlet which Montana voters receive before each election. The Voter Information Pamphlet is an invaluable source for every voter to read for themselves the pro's and con's on the issue. S.B. 256 would reduce the viability of this pamphlet in two ways:

1. Stripping the Pamphlet of Rebuttal Arguments. This bill would entirely eliminate a group's rebuttal of their opposing group. The provision is a crucial part of giving as complete a picture as possible to the voters. Without the rebuttal there is no dialogue between the opposing parties - no "Point/Counterpoint" exchange where groups can actually address the specifics of the other's arguments. Common Cause/Montana feels this exchange is very healthy. It definitely leads to a better understanding of the ballot issue by the voter. It is true that some groups have not utilized this rebuttal provision as effectively as they could have, but to use this lacking of a few to punish all groups and all ballot issues does not seem reasonable.

Exhibit F

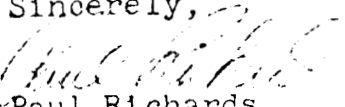
2. Reduced Circulation of the Voter Information Pamphlet.
 S.B. 256 provides only for a Voter Information Pamphlet to be sent to each household. If there were 4,5, or 6 voters in a household, they would still receive only one pamphlet. Without their individual copies which they presently receive, voters would have considerably less access to the pamphlet. Without individual designation, a student away at college would never even receive his copy of the Voter Information Pamphlet. A businessman who travels might come home to find someone else had already read their jointly-held pamphlet and thrown it out. Even more importantly, with an address of "OCCUPANT" instead of the individual voter's name, the Voter Information Pamphlet will take on the tone of being nothing more than just another piece of junk mail. There can be no doubt that the wider circulation which the pamphlet receives, the more informed the vote will be on election day. To arbitrarily cut corners to save a minimal amount of money does not seem to be a wise trade-off, when compared to the benefits of a well-informed electorate.

Thus, Common Cause/Montana would strongly suggest the following amendments to Senate Bill 256:

1. Page 11, line 18. Reinstate "(d) rebuttal arguments"
2. Page 13, lines 14 and 15. Reinstate "every voter in each county"
3. Page 14, line 3. Reinstate "registered voter of the county"
4. Page 18, lines 15 and 16. Repeal only Section 13-27-314. Section 13-27-407 should not be repealed.

With the above amendments, we would urge the approval of Senate Bill 256 by your committee.

Thank you for your consideration.

Sincerely,

 Paul Richards
 State Director
 Common Cause/Montana



COMMON CAUSE/MONTANA

P.O. Box 822

Helena, Montana 59601

Telephone (406) 442-6959

Sen. Everett Lensink, Chairman
Senate Judiciary Committee
Hearing on S.B. 256 - Statewide Ballot Issues
February 7, 1979

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We also approve of the concept of placing all ballot issues on the same ballot (pages 15,16, section 16).

But, in addition to these timely corrections of ballot issue procedure, Senate Bill 256 would directly alter and harm the Voter Information Pamphlet which Montana voters receive before each election. The Voter Information Pamphlet is an invaluable source for every voter to read for themselves the pro's and con's on the issue. S.B. 256 would reduce the viability of this pamphlet in two ways:

1. Stripping the Pamphlet of Rebuttal Arguments. This bill would entirely eliminate a group's rebuttal of their opposing group. The provision is a crucial part of giving as complete a picture as possible to the voters. Without the rebuttal there is no dialogue between the opposing parties - no "Point/Counterpoint" exchange where groups can actually address the specifics of the other's arguments. Common Cause/Montana feels this exchange is very healthy. It definitely leads to a better understanding of the ballot issue by the voter. It is true that some groups have not utilized this rebuttal provision as effectively as they could have, but to use this lacking of a few to punish all groups and all ballot issues does not seem reasonable.

2. Reduced Circulation of the Voter Information Pamphlet. S.B. 256 provides only for a Voter Information Pamphlet to be sent to each household. If there were 4, 5, or 6 voters in a household, they would still receive only one pamphlet. Without their individual copies which they presently receive, voters would have considerably less access to the pamphlet. Without individual designation, a student away at college would never even receive his copy of the Voter Information Pamphlet. A businessman who travels might come home to find someone else had already read their jointly-held pamphlet and thrown it out. Even more importantly, with an address of "OCCUPANT" instead of the individual voter's name, the Voter Information Pamphlet will take on the tone of being nothing more than just another piece of junk mail. There can be no doubt that the wider circulation which the pamphlet receives, the more informed the vote will be on election day. To arbitrarily cut corners to save a minimal amount of money does not seem to be a wise trade-off, when compared to the benefits of a well-informed electorate.

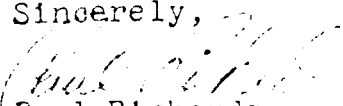
Thus, Common Cause/Montana would strongly suggest the following amendments to Senate Bill 256:

1. Page 11, line 18. Reinstate "(d) rebuttal arguments"
2. Page 13, lines 14 and 15. Reinstate "every voter in each county"
3. Page 14, line 3. Reinstate "registered voter of the county"
4. Page 18, lines 15 and 16. Repeal only Section 13-27-314. Section 13-27-407 should not be repealed.

With the above amendments, we would urge the approval of Senate Bill 256 by your committee.

Thank you for your consideration.

Sincerely,


Paul Richards
State Director
Common Cause/Montana

SENATE COMMITTEE JUDICIARY

Date 2/7/79 ~~2/4/79~~ Bill No. 232 Time _____

NAME	YES	NO
Lensink, Everett R., Chr. (R)	✓	
Olson, S. A., V. Chr. (R)		✓
Turnage, Jean A. (R)	✓	
O'Hara, Jesse A. (R)	✓	
Anderson, Mike (R)	✓	
Galt, Jack E. (R)		<i>12. abstained</i>
Towe, Thomas E. (D)	✓	
Brown, Steve (D)	✓	
Van Valkenburg, Fred (D)	✓	
Healy, John E. (Jack) (D)	✓	
	6	2

10. abstained

Alvin W. ...
Secretary

Everett R. ... a/p
Chairman

Motion: *in pass, and amended*

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

29