

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 13, 1981

The Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date in room 442 of the State Capitol Building at 10 a.m.

ROLL CALL: All members of the committee were present, excepting Senators Johnson and Kolstad.

CONSIDERATION OF HOUSE BILL 565:

AN ACT TO PROVIDE PROCEDURES FOR REQUESTING
BUDGET AMENDMENT; TO PROVIDE FOR ENFORCEMENT
OF THE ATTORNEY GENERAL AND FOR PENALTIES.

Rep. Audrey Roth, said there is a need for budget amendments. This is an act to provide for procedures for requesting budget amendments, for enforcement of the Attorney General, and for penalties. She explained the new parts, page 2, section 1, and section 5 on page 5. Page 3 sets up criteria and line 15 gives the penalty for noncompliance.

PROPOSERS: None.

OPPOSERS: David Lewis, official of budget and planning, said page 3, lines 1 and 2 have problems: They are too subjective because anyone could make issue of these, and there are problems with the two certifications. He feels this is an attempt to give the finance committee the authority. The bill is unworkable because of this.

Mike McGrath, from the Attorney General's office, opposes because of constitutional ramifications in section 4, pages 3 and 4. In the case against Governor Judge it was held that the legislature could not delegate authority to committees. The reason they oppose is because it has serious constitutional problems with delegation.

Margaret Davis, LWV, concurs with the statements.

Chairman Story said this bill will be put into a subcommittee to see if it can be workable.

Questions: Senator Towe asked Rep. Roth to respond to Mr. Lewis and McGrath, and she said it was a problem case and it was favorable to the governor. She had researched it and felt it was not unconstitutional.

Senator Towe asked her what her intention was, and if she wanted a mechanism in the law without the approval of the finance committee. Rep. Roth wants to make more responsibility in the budget amendment process. She had a study analysis and offered to make copies for the committee. It is a clean delineation of the authority. There is also an escape mechanism.

Senator Towe asked Mr. Lewis about amending the bill to fit with the decision of the Supreme Court for requirements that the committee recommend back to the authority if the requirement had not been met and would require another review. The legislature could only recommend these criteria had not been followed.

Senator Towe asked Mike McGrath about the consistency of the procedures with the Judge case. Mr. McGrath answered that in the present language the finance committee can investigate and refer to the attorney general. Under this bill that is removed. Senator Towe referred back to the original authority before the review takes effect. Senator Towe asked Rep. Roth: "What do you think of the procedure?" Senator Towe suggested leaving in the criteria. Budget amendments would come to the finance committee. If they say it does not meet approval, they have the authority to reject it. Then it would go to the governor to be redone. Roth said she would agree with that.

Ryan and Lewis discussed line 4, page 4.

Senator Hafferman complimented Rep. Roth because the majority has been derelict in their duties.

Chairman Story said it is in the law that anyone who spends their budget can be sent to jail if there is no budget amendment. He said they could do something that would not be unconstitutional.

Senator Hammond asked if there is any way you can stop a budget amendment or has one ever been refused. Mr. Lewis said there is confusion between budget amendments and overspending budgets. The governor can increase those budgets to the fund budget during the biennium. Agencies have to live within that authority. There has been some small percentage that do not meet the criteria and have been turned down. Vast majorities have been approved.

Senator Ryan asked if there is a review and Lewis said yes. Senator asked if the existing finance committee goes over before or after they have been approved? Answer, after.

Rep. Roth enclosed reports she wants back.

Senator Story appointed Senators Towe and Johnson to work with authority, and fiscal analyst and report back Tuesday after next.

CONSIDERATION OF HOUSE BILL 630:

AN ACT TO AUTHORIZE THE DEPARTMENT OF COMMUNITY AFFAIRS TO PROVIDE SECURITY AT STATE AIRPORTS WHENEVER REQUIRED BY FEDERAL REGULATIONS.

Rep. Walter Sales referred to Mansfield's gift of the airport at West Yellowstone and said the bill only affects the one airport and would allow state employees to be security officers.

PROPOSERS: Ron Dent, of the Montana Aeronautics Divisions, said it will not cost any more and will clarify the language.

OPPOSERS: None.

Questions: Senator Hafferman asked how is it paid for?

Senator Towe asked Mr. Dent about federal regulations. If they are dropped, you will be without authority. He also asked if it is necessary to have those inserts in the bill. The answer was they will drop their security officer and turn it over to the county. They would not need this bill.

Senator Ryan asked what is an agister? Senator Towe said it is someone who does some repair on your property and has the right to retain a lien against that property.

The hearing was closed. Senator Boylan will carry the bill.

CONSIDERATION OF HOUSE BILL 657:

AN ACT TO PROVIDE THAT THE SECRETARY OF STATE SHALL BE EX OFFICIO COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES.

Rep. Underdal, enclosed his testimony which he had read to the committee.

PROPOSERS: Rep. Calvin Winslow, enclosed his testimony.

OPPOSERS: Jim Murry, AFL-CIO, enclosed testimony.

Larry Fasbender, liaison for the governor, stated he was opposed to this bill. There would be a hardship on elected official consolidation and may not save money. The office was set up with the idea that if removed from office it would be less political. He was not convinced by the 2 points from Rep. Winslow. Money and convenience warrant making it political. It is not a large inconvenience to get information from either place.

OPPONENTS: Joe Lampson, Montana Democrat Party; Kelly Jenkins, Common Cause, said the secretary of state is a political position and pointed out the amendment on page 6. No language can eliminate that problem

Mark Mackin, Citizens Legislative Coalition, said this bill relates to Senate Bill 385 to delete citizenship enforcement. It will reduce it to the secretary of state and the attorney general. Financial disclosure will also be placed under partisan offices.

Questions: Sen. Towe asked Rep. Winslow about the complaints against the secretary of state if he is treated on a non-partisan basis. Campaign claim will be a strategy every time the secretary of state gets in a race. Rep. Underdal does not agree. The secretary of state would have to be careful that he would not make his office political.

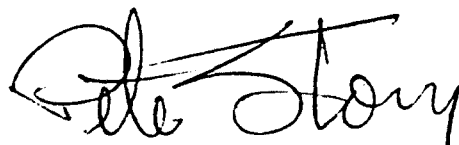
Sen. Towe asked Rep. Winslow about a false accusation, but he was answered that it would only happen once. Sen. Story remarked that campaigns are clean because the other does not work.

Senator Towe remarked that someone is hired to run campaigns, and problems would result if he is a non-partisan person.

In closing Rep. Underdal feels that concern against this bill has been blown up. It will be run as nonpolitical as it is now. He was also surprised that the governor would interfere. The secretary of state did not have anything to do with the bill until he and Rep. Winslow went to see him. This bill will eliminate some bureaucrats.

ACTION ON HOUSE BILL 630: Senator Hammond moved DO PASS; motion carried by those present after some discussion. Senator Hammond will carry the bill on the Senate floor.

ADJOURNMENT: 11:30.


PETE STORY, CHAIRMAN

STATE ADMINISTRATION COMMITTEE

Date 3-13

Each day attach to minutes.

5-13
1979
Mr. Chairman, members of the committee, there is one thing that we all have in common. Four months ago as we campaigned and visited with the voters, we were charged with the same duty, "Use our tax dollars efficiently, prevent the unnecessary growth of government and consolidate when possible."

House Bill 657 accomplishes this very mission. It simply consolidates the Campaign Practices office and staff into the Secretary of State's office and saves the voters almost \$30,000 per year.

It is important that we understand at this point, that the moving of the office will not have any effect on the degree of accountability required of the elected officials. This is not the intent of the bill, which is simply striving for consolidation and a savings to the taxpayer.

In 1979, S.B. 65 named the Secretary of State as the Chief Election Administrator. In fact, at the present time, on paper, the Campaign Practices office is administratively assigned to the S.O.S., but there is and has been no cooperation. Each office has an attorney and clerical staff, their own supply pools and files. This bill would pull the offices together and make it unnecessary to have two attorneys. There would be a savings on the supply pool and the filing systems are already established in fact with a microfilming system being undertaken by the S.O.S. I believe it could be of assistance to some of the record keeping.

This measure is patterned as the ex-officio Insurance Commissioner and the ex-officio Securities Commissioner.

At present almost all state records of substance are kept with

The Secretary of State's office. In all other matters they are directly aligned with the Clerk and Records at the local level. With the present setup, people often go to the Secretary of State for materials and are told they should go down the street to get their help.

At the committee hearing, I kept hearing the words autonomy, objectivity, non-partisan. How ridiculous to say that the present system is not political when the names are submitted for appointment by political parties. When the present director was named, the newspaper headline read, "Party Worker Named to Campaign Practices Post." The real question is, which is more political, the one appointed or the one elected. At least the elected official can be removed by the voters.

Prior to 1975, all of the election records were kept by the S.O.S. and I didn't see where there were any complaints.

The other question brought up was, who is going to investigate the S.O.S? Under current law, there are two places one can go to allege a violation (13-37-111). (1) Campaign Commissioner or (2) County Attorney (line 15, page 5 of bill). Any person may make this complaint, and under the present system the County Attorney could investigate even if the Commissioner is against it. (13-37-125). This protection, in itself, protects against the Commissioner showing favoritism or "sitting on" a charge.

In this bill, subsection 5 adds an extra protection of requiring that certain charges be transmitted to the Chief Justice for action. The word used in the context is that he "shall," not that he "may" turn a complaint over. Realistically, can you imagine

how devastating it would be for an elected official not to submit to investigation of himself, when an allegation has been made? It would be interpreted by the public as "cover up," and admitting wrong doing. HB 657 doesn't change enforceability procedures. It just adds additional ways to handle problems. If there are any enforceability problems, they exist under present law already.

In summary, HB 657 does nothing to reduce the autonomy or increase the partisanship of the Commissioner. It merely makes sense on four grounds:

- (1) Convenience: People will no longer be sent from one office to another to get what they need.
- (2) Efficiency: Consolidation will result in greater coordination between closely related functions, and elimination of duplicate files, procedures and forms.
- (3) Administration: Right now there is a chief in each office, as well as operations in each, to administer supplies and personnel.
- (4) Cost: There is a savings of \$56,351 in the 1983 biennium and will continue saving every year.

Basically, this bill does everything current law does for a lot less, and clearly we are going to get more service per dollar.

March 13, 1981

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Calvin Winslow
Representative

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HB 657 designates the Sec. of State as Ex officio Commissioner of Campaign Finance and Political Practices. There is no change in the duties of the office nor does it change any rule or statute.

What it will do, is to consolidate the duties and functions of the commissioner with the duties delegated to the Sec. and eliminate duplication of files and forms. With a single administrator there will be a better and more efficient use of personell and supplies. The Sec. of State has his own attorney which would offer a substantial saving. The fiscal note shows a saving of \$56,351 which I regard as extremely conservative, since the office space in the Sec. of State's office must be accounted for, however that rental is returned to the general fund.

Both Reps. Winslow and I had plans to file this bill but after talking it over decided to cosponsor it. Before we did we visited with the Sec of State and his attorney to find out if it would cause any particular problems and if it would save the taxpayer some money. This bill was not solicited by the Sec nor did he encourage or discourage

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us. However we requested that he or his office would not testify in our favor. We were also encouraged by the Governor's speech wherein he stated that he would cut down on bureaucratic government.

The repealed sections are no longer necessary as they deal with the selection of the commissioner. 13-37-102 — 13-37-10

The office of commissioner was created in 1975 and like all bureaucracies has increased in size and budget.

Budget 1975-76 \$72,571 79-80 89,540 81-82 \$18,685

We would ask your support for a do pass for a bill that promotes efficiency economy and consolidation of with no loss of service.

HB 657 designates the Sec of State as
Ex Officio Commissioner of Campaign Finances
and Practices. The Commissioner's office was created
in 1975, previously a duty of the Sec of State.

Going thru the bill Sec 1 has an additional
subsection 17 regarding duties of the Sec.

Sec 2 states that there is an office of
commissioner and names the Sec. of State as
The commissioner

Sec 3 and 4 make some necessary changes
in language and Sec 5 changes language
as well as providing for a method to deal
with violations. Sec 6 makes some language
changes. Repeals refer to election of commissioner

We are making no changes in the duties

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of the office nor are any rules changed.

This is simply an effort to consolidate two offices whose duties are tied together in the statutes and thus save a considerable sum of money. The Governor in his message stressed consolidation and elimination of unnecessary bureaucracy. The fiscal note shows a \$56,351 saving for the biennium which I regard as very conservative. This is approx. 2.5% of the budget.

This is nothing new as the State Auditor is also Ex officio Insurance Commissioner.

It will coordinate the related functions and eliminate the need to go from one

office to the other to get what we need,

It will save in duplication of procedures and supplies as well as personell.

Eliminates need for an attorney

More efficient use of personell. What do they accomplish in the interim between general elections?

As mentioned before it will save \$56,351 and also prevent a bureaucracy from growing.

Rep. Winslow and I would hope the committee will give H B 657 a do pass



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TESTIMONY OF JAMES W. MURRY ON HOUSE BILL 657, HEARINGS OF THE SENATE STATE
ADMINISTRATION COMMITTEE, MARCH 13, 1981

The Montana State AFL-CIO is strongly opposed to House Bill 657, an act which would merge the Office of Campaign Finances and Practices with that of the Secretary of State, and make the Secretary of State the ex-officio Commissioner of Campaign Finances and Practices.

We believe that it is essential that the job of investigating any alleged wrong doing by a political candidate must be done by an independent, objective Commissioner who is not subject to political pressure from either party.

As I am sure most of you know, the Montana State AFL-CIO takes an active and aggressive role in political camapigns. We publicly endorse those candidates whom we believe share our views on important workers' issues. We then actively work for the election of those candidates during the election campaigns.

Over the years, we formally endorsed former Secretary of State Frank Murray, but we did not endorse present Secretary of State Jim Waltermire. However, our support for a separate office and Commissioner of Campaign Finances and Practices has remained consistent regardless of the individual who is elected as Secretary of State.

The Secretary of State is an elected, political office. The Secretary of State would have to investigate members of his or her own political party, should charges be made. Even if the investigations were carried out in the strictest manner, there would always be a lingering doubt in the minds of the public about the final decision.



Recently, the Secretary of State has been requested to issue an opinion as to possible wrong doing on the part of State Senator Mike Anderson. This places the Secretary of State in a difficult position; whichever way he rules, some people will think he favored a member of his own party, or that he ruled against him only to protect himself from criticism. There will always be a question about the Secretary of State's ability to be objective.

With an autonomous, neutral Commissioner and office, we are able to avoid even the appearance of bias. It is important that we have a Commissioner and office which the public can trust.

We urge you to vote against House Bill 657.

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The League of Women Voters of Montana
Margaret S. Davis
c/o Harrison, Helena 59601

HB 657 - proposed -

The League is opposed to making the Secretary of State ex-officio Commissioner of Campaign Finance and Practices. The position of the Commissioner is a sensitive one and should be maintained as an independent office.

The Sec. of State is a political office whose duties make him responsible to many other elected officials including the Governor and other members of the Legislative Branch (State Senate), the Judiciary (Judges & Justices), the Judiciary, and various state and federal agencies. The attribution of the Commissioner's enforcement powers to an executive branch officer raises serious problems. These powers include issuing orders of non-compliance (13-37-10), withholding names from the ballot (13-37-126, ~~13-37-127~~), and withholding certification of nomination or election (13-37-127). The investigatory powers (13-37-111) necessary for enforcement of the Campaign Finance Act should not be held by an elected official. This consolidation of powers could undermine the public's confidence in the whole election process.

The Sec. of State is Montana's chief election officer by law (13-1-201). Overseeing election management is an important function, but it is far different from and incompatible with enforcing campaign practices.

Finally, we do not believe consolidation would provide significant cost savings, particularly in some form of other

3-13-81

VISITORS' REGISTER

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

MARCH 13

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PRESIDENT

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

630

having had under consideration Bill No.

SALES (HAMMOND)

HOUSE

630

Respectfully report as follows: That Bill No.

BE CONCURRED IN

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DO PASS