

MINUTES OF THE MEETING OF THE STATE ADMINISTRATION COMMITTEE
January 25, 1983

VICE CHAIRMAN HELEN O'CONNELL called the meeting to order at 8 a.m. in Room 129 of the Capitol. All members were present except for REPRESENTATIVE FRANCIS BARDANOUVE.

Vice Chairman O'Connell began the meeting by calling for testimony on House Bill 231.

HOUSE BILL 231

REPRESENTATIVE JOE BRAND, sponsor of House Bill 231, said the bill was requested by the Public Employees' Retirement Division. He said the bill would guarantee payment of pension benefits to firefighters who lose their jobs because their fire department goes out of business. The monthly benefits received by one of these retired firefighters cannot be less than one-half the monthly salary paid to all newly confirmed active firefighters in the cities participating in the retirement plan. He said it would protect those who have vested rights in the system and allow them to stay in the system if their department shuts down, as well as gain percentage increases. He said if a firefighter leaves money in the fund and chooses to remain in the system, he would still get interest on the money. Representative Brand said that Public Employees' Retirement Division Administrator Larry Nachtsheim says the fiscal impact would be very minor on the system.

PROPOSERS

Ray Blehm, representing the Montana State Firefighters Pension Fund, suggested lines 15 through 18 be struck out and underlined, because they deal with how much money is collected and distributed to the retirement system. He said the measure deserves support because it will be of protection to firefighters in such places as Anaconda.

THERE BEING NO FURTHER PROPOSERS OF HOUSE BILL 231, AND NO OPPONENTS TO HOUSE BILL 231, VICE CHAIRMAN O'CONNELL CALLED FOR A CLOSING STATEMENT BY REPRESENTATIVE JOE BRAND.

In closing, Representative Joe Brand said that Legislative Council Researcher Lois Menzies would be preparing amendments to clean up language in the bill. Representative Brand also asked for a subcommittee to be appointed to deal with the bill.

COMMITTEE QUESTIONS

REPRESENTATIVE JOHN PHILLIPS asked if it was correct in the bill where it said that the benefit amount would equal 50% of the last monthly benefit. Representative Brand said that figure was incorrect, and the language in the bill would be amended out and corrected.

REPRESENTATIVE BILL HAND asked if Representative Brand would bring amendments in. Representative Brand said he would.

REPRESENTATIVE PAUL PISTORIA asked for comment from Nachtsheim.

Nachtsheim said that on page three, lines 23 through 25, language in there to make pension payments from the fund for one-half the pay. He said it is impossible to do as written, and that was one of the amendments to be fixed. He said the way it was written, the statute was arguing with itself. Nachtsheim said the bill would provide some means of dealing with city shut downs during legislative iterims. He said there was no "magic number" to put in to determine a pension benefit level at the top of page three, so the division decided on an average of the city's benefits.

REPRESENTATIVE WALTER SALES asked if fire departments are dissolved would cities still have to continue payments into the fund. Nachtsheim said he did not know. He said perhaps this question might be addressed in other legislation. "Until it happens," Nachtsheim said "we don't know." Representative Sales directed his attention to page four and questioned the "allowance adjustment." Nachtsheim said it refers to people in a gap. He said there are three classes of employees in the bill: those to be hired before 1973, those not retired before 1981, and those not considered. Representative Sales said that in 1981 the Legislature put a lot of money into the fund. He wanted to know how it is working out. Nachtsheim said experience has not yet told.

REPRESENTATIVE GLENN MUELLER asked if 20% was the average of the city's payments. Representative Brand said "that's the pension they'll get--20% of salaries when they retired." Representative Mueller asked about the unfunded liability--what does the 20% do? Nachtsheim said it would be a different situation for each city depending on where a firefighter is on the pay matrix.

REPRESENTATIVE JERRY DRISCOLL asked about the 20% figure. Ray Blehm said nothing in the law speaks to dissolution of fire departments, whether it should be 20% or 50%; there are a lot of intangibles in all the considerations.

Representative Bardanoue asked about the case of a young firefighter with ten years service who is then eligible to continue to draw from the system without paying in. Would that be a "big drain"? Representative Bardanoue also asked if there was a fiscal note for the bill. Nachtsheim answered in the negative.

Vice Chairman O'Connell indicated the bill would be put into subcommittee.

HOUSE BILL 393

REPRESENTATIVE JIM JENSEN, sponsor of House Bill 393, said the bill would attempt to allow the voters to make intelligent decisions after hearing both sides of political controversies. He said it would seek to control last minute statements by candidates or those acting in their behalf. He said at present, the New York Times vs Sullivan rule for public figures applies, and leaves many public figures substantially without a remedy for recovery for false statements made against them. He said in our system the public is a jury, and it should hear both sides. He urged the committee to pass the bill and put teeth into the legislation. (See attached statement.)

PROPOSERS

SENATOR TOM TOWE, speaking in favor of House Bill 393, said the bill was drafted largely as a result of an occurrence in Billings this past campaign year involving Representative Jensen. He said at the last minute a flyer was circulated against Jensen's candidacy containing many false statements. Senator Towe also referred to a controversy of several years involving Bob Harper and Jerry Lombardi. Senator Towe said in that case, a voting record was published in the newspaper one day before the election. The sponsor later admitted the advertisement was wrong. Senator Towe said that in Jensen's campaign at 3:30 in the afternoon on the day before the election, the flyer containing misstatements was distributed to each home in Jensen's district. Fortunately, Towe said by 9:30 that evening, forces working on Jensen's behalf were able to get a response to every house in the district. Towe called that "nothing short of a miracle." Senator Towe distributed copies of the offending flyer and the response. (See attached.)

Senator Towe said the measure would require anyone who intends to distribute or publish an advertisement concerning the voting record or personal history of the candidate to submit the content of the proposed advertisement to the candidate at least five days before the election. He said the bill would also apply to any communications medium that accepts such an advertisement. He said that if a district court determines that a candidate violated the act, or his agents violated the act, the candidate must be removed from nomination or public office if the advertisement was false and could have produced a different vote by a substantial number of electors. The penalty against the publisher or manager of the communications medium or his employees for violating the act would be not less than \$100 and not more than \$1000.

He stressed that the violation provisions would require a showing of intention and materialness in order to stand. He also said the bill does not address news stories or editorials by the news media but covers only advertisements.

Joe Lamson, Executive Secretary of the Montana Democratic Party, said the party supports the measure. He said the party is concerned about last minute attacks on candidates. He said the party supports the bill on that condition.

OPPONENTS

Mike Meloy, representing the Montana Press Association, said the member newspapers were concerned about the measure. Meloy called the measure objectionable. He said provisions that relate to requirements that the news media notify the target of advertisements, plus the penalty provisions, are objectionable to the newspapers. He said the newspapers would have no objection to the bill if the committee would eliminate the requirements against newspapers. He also suggested that the bill is unclear as to the process for submission of copies of advertisements to newspapers. And he suggested that the penalties contained in the bill were possible "prior restraint." He noted that he and Senator Towe disagree on that point. As to the Harper-Lombardi dispute several years ago, Meloy said that Senator Towe was the attorney for Mr. Harper and managed to convince a court to turn around the election under existing law. Meloy urged the committee to report the bill out do not pass.

In closing, Representative Jensen offered amendments to the bill (see attached). Responding to Meloy, Jensen said the remedy mentioned by Meloy was hollow because "you have to lose" to be eligible for the remedy.

Representative Jerry Driscoll asked Meloy if the media would use discretion in accepting advertisements. Meloy said in some cases they do. Representative Driscoll said why shouldn't the publishers be fined. Meloy said the press association objects to requirements of notification.

REPRESENTATIVE BRENT BLISS said the measure could be misused to "smoke candidates out."

Representative John Phillips questioned if under terms of the bill, could something be put out in the last few days. Representative Jensen said one could do so but not use the voting record or history or comment on the opponent. Senator Towe said last minute statements could be made if the person making the statement did not use the name of the candidate or say anything about the candidate or his history or his voting record.

REPRESENTATIVE FRANCIS KOEHNKE asked if the words "my opponent" would be acceptable. Senator Towe said there would be no problem with that. But if one was to say, "my opponent did in 1947..." then that would be restrictive. Senator Towe stressed that the bill would not control news stories or editorials.

Representative Walter Sales said "I don't know how you stop this kind of crap--maybe a law against saying anything about anybody during an election."

Representative Paul Pistoria said "in my ads I tell the truth. I don't want you to stop me." Senator Towe said that if one were to get into attacking voting records, "it's only fair to allow them to know about it ahead of time."

REPRESENTATIVE CLYDE SMITH called it a kettle of worms. He spoke against the complexity of litigating the fine points of fact. Senator Towe said, in response, that the penalty would be so restrictive as to be unlikely to ever happen.

REPRESENTATIVE KATHLEEN McBRIDE asked if there were a constitutional distinction between regulation of newspapers and other forms of the media. Senator Towe said that the Federal Communications Act and the Campaign Practices Act cover the electronic media. He said the federal law grants people the right to demand a response in the electronic media.

Representative Mueller asked what would happen in the case where the friend of an opponent made the statement, and it was beyond the opponent's control. Representative Jensen said the bill covers those close to the candidate and those over whom the candidate has control. Senator Towe said with this bill newspaper editors would be more responsible about the letters they allow to be printed and perhaps would not print any in the final week.

REPRESENTATIVE CHET SOLBERG asked about weekly newspapers. He said most have deadlines of Monday night. He said someone who abused the bill could wait until then to notify his/her opponent and then "the opponent doesn't have a chance."

Representative Sales said "if I lie about myself, does this bill cover me?" Senator Towe said if the newspaper notifies you, the newspapers are okay.

Representative Phillips talked about a direct mailer made six days before the election and a certified letter mailed by the candidate. The responder then gives the five day notice to him that he wants to respond to the mailer. Senator Towe said "you don't need to use your opponent's name or refer to him in your mailer."

THERE BEING NO FURTHER QUESTIONS BY COMMITTEE MEMBERS, VICE CHAIRMAN HELEN O'CONNELL CLOSED THE HEARING ON HOUSE BILL 393.

HOUSE BILL 233

REPRESENTATIVE LES KITSELMAN, sponsor of the measure, said the bill was requested by the Secretary of State's office. He said it would take care of a practice not used in quite awhile. He said there were problems with some municipalities. And referred to a handout he distributed from Treasure County officials. He said the bill allows municipalities to report votes without crossing district lines. He said the bill would remove the requirement that the Secretary of State maintain a record of the count of votes cast at the latest general election by municipality.

PROPOSERS

Cliff Christian, representing Secretary of State James Waltermire, spoke in support of the bill. He said it was a clean up of language. He said precincts often cross municipality lines, and municipality votes are meaningless.

Bill Romine, representing the Clerks and Records Association, spoke in support of the bill. He said the municipality reporting can be done in municipal elections but not in other elections.

Mariann Campbell, representing Secretary of State James Waltermire, said the present law "requires us to maintain a file of no information."

THERE BEING NO FURTHER PROPOSERS AND NO OPPOSERS TO HOUSE BILL 233, REPRESENTATIVE KATHLEEN McBRIDE CLOSED AND VICE CHAIRMAN O'CONNELL CLOSED THE HEARING ON HOUSE BILL 233.

HOUSE BILL 255

REPRESENTATIVE NORM WALLIN, sponsor of the measure, said that House Bill 255 would prevent a situation where the state buys or sells land without official appraisal. He said the bill calls for a certified appraisal which includes a minimal study of what the values for the property are.

PROPOSERS

Lyle Manly, representing the Department of State Lands, spoke in favor of the bill. (See attached statement.)

THERE BEING NO FURTHER PROPOSERS OF HOUSE BILL 255, AND NO OPPOSERS OF HOUSE BILL 255, VICE CHAIRMAN O'CONNELL CALLED FOR QUESTIONS FROM COMMITTEE MEMBERS.

Representative Hand asked if the requirement for a certified appraisal would be a burden in terms of time. Representative Wallin said the issues of cost and fair price for land are most important.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, VICE CHAIRMAN O'CONNELL CLOSED THE HEARING INTO HOUSE BILL 255.

HOUSE BILL 288

REPRESENTATIVE MIKE KADAS, sponsor of House Bill 288, said it was a "simple bill." He said it was introduced at the request of Howard Schwartz, Executive Officer of Missoula County. He said the state should pay for programs that it requires. He said that cost to Missoula County for mailing out the voter pamphlets is about \$4000 every two years.

Bill Romine, representing the Clerks and Recorders Association, spoke in support of the measure.

OPPONENTS

Morris Brusett, Director of the Department of Administration, said the Secretary of State's office pays the cost of printing the pamphlets and distributing them to the county seats. Brusett said he would have no problem with the bill if the cost is shifted to the state, but it should not rest with the Department of Administration. Instead, he said, the Department of Administration should bill the cost to the responsible agency, in this case the Secretary of State's office.

In closing, Representative Kadas said he had no problem with shifting the financial burden to the Secretary of State's office. He suggested possible amendments to do so.

COMMITTEE QUESTIONS

Representative Joe Brand asked Schwartz how much burden do city and county governments expect the state to assume for the functions of government. He noted that the state faces federal funding cutbacks, and local governments expect the state to pick up greater costs.

Christians said that no one has seen a fiscal note on the measure. He also said that no state official has a list of registered voters. So the task of distributing the voter pamphlets should remain at the local level because of "possible practical and political problems."

Representative Bliss said the bill would not put the duty of distributing the pamphlets with the Secretary of State, it would just require the state office to pay for the postage.

Representative Driscoll asked if counties get a bulk rate. Merrill Klundt, Yellowstone County Clerk and Recorder, said counties are eligible for bulk rates.

Representative Sales asked how long the program requiring distribution of voter pamphlets has been in effect. Christians said he thought it was started in 1976 and that he did not know of its cost.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, VICE CHAIRMAN O'CONNELL CLOSED THE HEARING ON HOUSE BILL 288.

HOUSE BILL 375

Representative Kathleen McBride, sponsor of House Bill 375, said the measure would serve two purposes: to define a time frame in which state bills should be paid and to set an interest rate that creditors can collect if the time limits are not honored. She said it would make state projects more attractive to contractors because contractors would know of limits for when they would present invoices and receive payment. She said it would establish an interest rate of 18.25% a year. She said similar legislation has been passed at the federal level recently. She said it was beneficial because it results in more competition for state business as vendors are not afraid to have their capitol tied up by the state and it amounts to a savings to taxpayers because of reduced paperwork and because of more competition. She suggested that amendments were needed for the bill to indicate which law is now being repealed, to clarify to which agencies it would apply, and to clarify the computation of the time period.

PROPOSERS

Janelle Fallon, representing the Montana Chamber of Commerce, spoke for the bill. She said it would be good for small business.

Lloyd Crippen, representing the National Federation of Independent Businesses, said the Montana members were polled and asked if late repayment created problems. He said about 17% of the 5000 members responded, and 78% favored such legislation.

Blake Wordal, representing the Montana Hardware and Implement Dealers Association, said his group supports the measure.

Morris Brusett, Director of the Department of Administration, said he agreed with the bill. He said he would like to see clarifying language, such as when does the time period begin. He said amendments should also cover the question of payment in the event of disputed claims and interagency billing. He said the bill should also address cases of strikes and natural disasters.

Jack Noble, Deputy Commissioner of Finance for the Montana University System, said the University System favors the bill but seeks an amendment to provide for the procedure honored now by the University System. He said the system holds invoices until the goods are received and accepted.

Ron Brown, speaking for the Social and Rehabilitation Services Department, said the agency would favor the bill with amendments. He said that vendors typically bill the state when goods are shipped and invoices are paid as soon as a week or as late as two months later. But there is a problem with the medical professions. He said sometimes bills are submitted to peer review committees. Sometimes the invoice is not payable until after the committee's review, and that could take as many as two or three months.

THERE BEING NO FURTHER STATEMENTS BY PROPONENTS AND NO OPPONENTS TO HOUSE BILL 375, REPRESENTATIVE McBRIDE CLOSED BY SAYING THAT THE COMMITTEE SHOULD SUBJECT THE STATE TO THE SAME PENALTIES AS INDIVIDUALS FACE.

COMMITTEE QUESTIONS

Representative Joe Brand asked how much abuse has there been in the past. Representative McBride said there was no specific problem that she was aware of that she was trying to avoid a situation where the state runs on others' money. Representative Brand asked if this was done by a minority of other states and what do the amendments do regarding the objections raised by SRS. Representative McBride said she was unsure and perhaps an exception might be needed for SRS.

Representative Chet Solberg said he supported the bill. But, he said, the bill must account for valid claims. He said the state must not pay on only an invoice. He said in his business, he is constantly receiving erroneous invoices. He questioned how a "valid claim" will be determined. Representative McBride said she would look into the matter and would like to work on amendments.

THERE BEING NO FURTHER QUESTIONS BY COMMITTEE MEMBERS, VICE CHAIRMAN O'CONNELL CLOSED THE HEARING ON HOUSE BILL 375.

EXECUTIVE SESSION

Vice Chairman O'Connell called the committee into executive session at 10:31 a.m.

HOUSE BILL 231

Representative Mueller MOVED To put House Bill 231 into subcommittee for amendments.

Vice Chairman O'Connell appointed a subcommittee of one: Representative Joe Brand.

HOUSE BILL 233

Representative Sales MOVED House Bill 233 DO PASS, Representative Mueller seconded. The question being called, the Sales motion carried by unanimous voice vote. House Bill 233 was reported out do pass.

HOUSE BILL 255

Representative Sales MOVED House Bill 255 DO PASS, Representative Hammond seconded. The question being called, the Sales motion carried by unanimous voice vote. House Bill 255 was reported out do pass.

HOUSE BILL 288

Representative Hand MOVED House Bill 288 be amended, Representatives Hammond, Compton seconded.

Representative Holliday suggested the bill needs more than just one amendment.

Representative Clyde Smith asked "where does it all end?"

Representative Driscoll said the Secretary of State's office should pay for the mailing of the voter pamphlets if the state takes over the mailing. "Otherwise," Driscoll said, "I oppose the bill."

REPRESENTATIVE LLOYD "MAC" McCORMICK said it would be easier and simpler for counties to mail the pamphlets out. He said the Secretary of State's office should then reimburse counties for the costs.

Representative Sales MOVED House Bill 288 be amended to have the Secretary of State's office pay for the cost of mailing.

Representative Holliday suggested other wording for the amendment on line 15: "Secretary of State shall pay or reimburse each county for actual minimal cost of..."

Representative Hand so moved a substitute motion. Representative Hand also made his substitute motion include a change in the title.

The question being called, the Hand substitute motion carried by unanimous voice vote. House Bill 288 was amended.

Representative Hand MOVED House Bill 288 DO PASS AS AMENDED, Representative McCormick seconded.

Representative Joe Brand noted that "do pass" sends the bill directly to the floor. The floor would then send the bill to the Appropriations Committee for a fiscal note.

The question being called, the Hand motion carried by voice vote. Voting "no" were Representatives Ryan, Smith, Mueller, Solberg, Brand, Compton.

HOUSE BILL 375

Representative Hand MOVED House Bill 375 be moved into subcommittee, Representative McBride seconded. The question being called, the Hand motion carried by unanimous voice vote.

Vice Chairman O'Connell appointed Representative McBride chairman of the subcommittee and appointed Representatives Driscoll and Bliss to serve.

HOUSE BILL 393

Representative Mueller MOVED House Bill 393 DO NOT PASS, Representative Smith seconded.

Representative Driscoll said "this bill stops the mud-slinging within the last five days. We ought to stop it all the time."

Representative Bliss said the bill would not be effective.

Representative Holliday said the bill does not address the question of the days preceding the election.

The question being called, the Mueller motion carried by voice vote. Voting "no" were Representatives Driscoll, Hand, Koehnke, Hammond, Brand.

VICE CHAIRMAN O'CONNELL RELINQUISHED THE CHAIR TO CHAIRMAN BRAND.

HOUSE BILL 79

Representative McBride, chairman of the subcommittee reviewing House Bill 79, said the bill was not ready for consideration yet. She said she would report to the committee again after tomorrow's meeting.

HOUSE BILL 218

Representative Hammond said his subcommittee recommends leaving the bill as it is.

Representative Phillips, also a member of the subcommittee, said the problem is in federal and private funds. He said architects must be able to look at a job and that means they do half the work in order to be able to make a bid. Representative Phillips said Morris Brusett issued a letter of January 17 (see attached). Phillips said "we've accomplished something." He said he would be satisfied to leave the bill as is and "exempt these guys."

Chairman Brand asked if that would result in any "sweetheart agreements."

Representative Phillips said he believed not. He said the other statute is effective. He said the subcommittee had a unanimous feeling about this. He said "Brusett's procedures are what convinced me."

Representative Hammond said the procedures would apply to all state agencies.

Representative Hammond MOVED House Bill 218 DO PASS, Representative Sales seconded. The question being called, the Hammond motion carried by unanimous voice vote.

HOUSE BILL 23

Representative McCormick, chairman of the subcommittee, said his subcommittee was still working on House Bill 23.

HOUSE BILL 52

Representative McBride, chairman of the subcommittee, said her subcommittee was still working with the drafter of House Bill 52. She said her committee would check into some other matters, and have word during the next day or two about the fate of the bill. Chairman Brand said he would expect to bring the bill up on the coming Thursday.

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CHAIRMAN BRAND THEN MOVED THE COMMITTEE INTO CONSIDERATION OF REAPPORTIONMENT BILLS.

Chairman Brand said the committee would now work on two matters regarding reapportionment and send the rest to a subcommittee.

Chairman Brand called for the committee to address the problem of districting in the Gallatin area and the Powell County Senate district problem.

Representative Mueller said Representative Tom Hannah had no problem with the maps presented yesterday about the city of Billings.

Representative Chet Solberg said he would volunteer for the subcommittee but would prefer not to be chairman. Representative Hammond said he would volunteer for the committee if it would not consider any issues that would have ripple effects elsewhere in the state. Representative Solberg said he was interested in trying to work out a solution for districting in northeastern Montana that would not have ripple effects.

Representative Driscoll said Representative Winslow and Jensen have no ripple effects with their proposals for redistricting within the city of Billings.

Representative Bliss said members of the reapportionment commission have no objection to the Winslow proposal.

Representative Sales said that with regard to those proposals the committee could "put them both in or both out."

Chairman Brand brought the committee to the discussion of the Gallatin County proposal. He said the problem was that the Gallatin Gateway area would be put into Madison County and the Three Forks area would be put into either Madison or Jefferson Counties.

He said the Johnson-Marchwick plan was the most popular in Gallatin County

Responding to a question by Chairman Brand, Legislative Researcher, Ann Brodsky, gave these figures for populations in Gallatin County district: district 33, 7,792; district 34, 7,893; district 35, 7,592; district 36, 7,822; district 37, 7,476; district 38, 8,082; district 39, 8,185; district 40, 7,534; district 41, 7,985; district 42, 7,941. She said the average Cascade County district contained 7,875 people. She said the total Cascade County district totaled at 78,752. She said the low permissible population in Cascade County was 7,473.

Chairman Brand said the Johnson-Marchwick plan would have an effect to the west as follows: Beaverhead and Madison Counties must then pick up population from somewhere else, either Jefferson County, Deer Lodge County or somewhere else contiguous to either of those counties. He said the Johnson-Marchwick plan would create an extra House district in the state and somewhere else, someone has to give.

Chairman Brand asked the committee what plan it believed should be adopted. Representative Sales said "you can't do anything without rippling and throwing everything out of whack. Start from a 'bad premise' and farther down the road you'll be stuck.

Brodsky said another plan would put Three Forks into Madison County. Representative Sales said this would put a Democratic area into a strong Republican county, and that was not fair.

Chairman Brand asked if it was best to leave the plan as it is. He asked if the ripple effect of the Johnson-Marchwick plan would have a hard time with Beaverhead and Madison Counties. He said there were two problems with the plan: a new House district somewhere in the state and therefore a new problem created elsewhere.

Representative Sales said "it is an impossible situation."

Representative McBride asked about five districts with a greater than five percent deviation. Brodsky confirmed that there were five districts with slightly higher deviations.

Chairman Brand asked the committee for recommendations. Representative Hammond said "we can't do anything!"

Representative Mueller MOVED to make no recommendation, Representative Hammond seconded. The question being called, the Mueller motion carried by voice vote. Representative Sales and Ryan voted "no".

Chairman Brand turned the discussion to the Powell County Senate district.

Brodsky said one proposal would take 65 people east of Interstate 90 in Deer Lodge County and in Powell County and put in a Powell County or Silverbow County district.

Representative McBride spoke of possible ripple effects.

Chairman Brand said he would try to work out pairings in the area. He said the commission member Joanne Woodgerd wouldn't go for joining districts 66 and 67, the Ravalli County and Beaverhead County House districts. He said that was an option for creating one Senate district, but it was not acceptable to

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Mrs. Woodgerd. Chairman Brand said he would recommend the so-called green plan for pairing of Senate districts.

Representative Bliss MOVED adjournment, Representative Hammond seconded.

Chairman Brand appointed a subcommittee to deal with reapportionment issues. He appointed Representative Driscoll chairman, and named Representatives Sales, Hammond, Solberg and Koehnke to serve.



JOE BRAND, Chairman

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STANDING COMMITTEE REPORT

JANUARY 25,

19 83

MR. **SPEAKER:**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **HOUSE** Bill No. **233**

first reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
REPORTING AND MAINTAINING OF ELECTION RECORDS BY
MUNICIPALITY; AMENDING SECTIONS 13-1-204 AND 13-15-404,
MCA."

Respectfully report as follows: That **HOUSE** Bill No. **233**

DO PASS

REP. JOE BRAND

STANDING COMMITTEE REPORT

JANUARY 25,

19 83

MR. **SPEAKER:**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **HOUSE** Bill No. **255**

first reading only (**white**)
Color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE APPRAISAL BY
A QUALIFIED APPRAISER OF ANY STATE LAND TO BE PURCHASED,
EXCHANGED, OR SOLD; AMENDING SECTIONS 77-1-202, 77-2-203,
77-2-211, AND 77-2-323, MCA."**

Respectfully report as follows: That **HOUSE** Bill No. **255**

DO PASS

..... **REP. JOE BRAND**

Chairman.

STANDING COMMITTEE REPORT

JANUARY 25,

19 83

MR. **SPEAKER:**

We, your committee on **HOUSE ADMINISTRATION**

having had under consideration **HOUSE** Bill No. **288**

first ~~page 15~~ **white** ~~color~~

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF ADMINISTRATION TO REIMBURSE COUNTIES FOR THE COST OF MAILING VOTER INFORMATION PAMPHLETS; AMENDING SECTION 13-27-410, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **288**

be amended as follows:

1. Title, line 5.
Strike: "DEPARTMENT OF ADMINISTRATION"
Insert: "SECRETARY OF STATE"
Following: "TO"
Insert: "PAY OR"

2. Page 2, line 15.
Strike: "department of"

3. Page 2, line 16.
Strike: "administration"
Insert: "secretary of state"
Following: "shall"
Insert: "pay or"

AND AS AMENDED

DO PASS

REP. JOE BRAND

Chairman.

STANDING COMMITTEE REPORT

JANUARY 25,

19 83

SPEAKER

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

having had under consideration Bill No. **393**

first

reading copy (**white**)
color

"AN ACT PROVIDING FOR PREPUBLICATION NOTICE TO A CANDIDATE WHOSE VOTING RECORD OR PERSONAL HISTORY IS MENTIONED IN A CAMPAIGN ADVERTISEMENT TO BE GIVEN BY THE SPONSOR OF THE ADVERTISEMENT AND THE MEDIUM CARRYING THE ADVERTISEMENT; AND PROVIDING PENALTIES."

HOUSE

Respectfully report as follows: That Bill No. **393**

~~DO PASS~~ **XXX NOT PASS**

~~REP. JOE BRAND,~~

Chairman.

FEBRUARY 14, 19 83

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 23

first reading copy (white color)

"AN ACT PROVIDING AD HOC COST-OF-LIVING INCREASES IN SERVICE AND DISABILITY RETIREMENT ALLOWANCES AND SURVIVORSHIP ALLOWANCES FOR MEMBERS OF THE PUBLIC EMPLOYERS' RETIREMENT SYSTEM AND THEIR BENEFICIARIES; INCREASING THE MINIMUM MONTHLY BENEFIT ALLOWANCE FOR MEMBERS AND THEIR BENEFICIARIES; PROVIDING FUNDING FOR THESE BENEFIT INCREASES THROUGH EMPLOYER CONTRIBUTIONS; AMENDING SECTIONS 19-3-801, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 23

be amended as follows:

1. Title, line 4.
Following: "PROVIDING"
Insert: "AN"

2. Title, line 5.
Strike: "INCREASES"
Insert: "INCREASE"

3. Title, lines 8 and 9.
Following: ";" on line 8
Strike: "INCREASING" through ";" on line 9

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BO-139

4. Title, line 10.

Strike: "THESE"

Insert: "THE"

Strike: "INCREASES"

Insert: "INCREASE"

5. Page 1, lines 20 through 24.

Strike: "(1)" on line 20 through "\$2.50" on line 24

Insert: "(1) \$2.00"

6. Page 1, line 25.

Strike: "\$75"

Insert: "\$60"

Following: ";

Insert: "or (2) \$1.00 for each year of creditable service, up to a maximum of \$30, for a member retired on or after July 1, 1981, but before January 1, 1983."

7. Page 2, line 1 through line 4 on page 3.

Strike: line 1 on page 2 through line 4 on page 3 in their entirety.

Renumber: subsequent sections

8. Page 3, line 12.

Strike: "6.778"

Insert: "6.5148"

9. Page 4, line 8.

Following: "and"

Strike: "-----" through "]"

Insert: "House Bill No. 57"

10. Page 4, lines 11 and 12.

Strike: "-----" on line 11 through "]" on line 12

Insert: "House Bill No. 57"

AND AS AMENDED

DO PASS

HOUSE BILL 231 - COST-OF-LIVING CALCULATIONS UNIFIED FIREFIGHTERS' SYSTEM - Brand

This bill was requested by the Public Employees' Retirement Division as a result of an Attorney General's Opinion concerning the supplemental payments made to retired firefighters under 19-13-1006 and the allowance adjustments under 19-13-1007. The date of these supplemental payments and procedures for collecting reimbursement for supplemental payments from the Auditor's office after PERD had made the payments was not clear in the current statute; also, those eligible for the allowance adjustments, was not clearly defined. These clarifications found in sections 2 and 3, does not change the current payments being made under the authorities of the Attorney General's Opinion.

Section 1 of the bill provides the retirement fund the authority to make payments to firefighters who are terminated in any city that dissolves its fire department. In addition to the clarification of the Attorney General's Opinion, section 3 provides an alternative method of calculating supplemental pensions and adjustments for retirees of any city which dissolves their fire department.

None of these provisions provide for any increase in the retirement benefits to any individual. They simply provide the administrative procedures to continue current benefits granted by statute.

NOTE: (1) Supplemental pensions and pension adjustments are currently based on one-half the pay of the newly confirmed firefighters in the city from which a firefighter has retired. Quite obviously, if a fire department has dissolved, there could be no newly confirmed firefighters' salary and retirees would lose benefits to which they are currently entitled.

Larry Nachtshen
Support
READ BILL

WITNESS STATEMENT

Name Ray Blehm Committee On St Ad
Address 226 WALLACE Date _____
Representing Mt St Firemans Assoc Support X
Bill No. HB 231 Oppose _____
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *the MSFA supports the concept*
2. *of this bill but after discussing*
3. *this with the sponser believe*
4. *that amendments are needed*
5. *to bring the bill into*
6. *agreement with the intent*
7. *of the author.*

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Jim Jensen

Democrat H.D. 66



November 1, 1982

"I am personally angered and saddened by the 11th hour untruths and distortions we've seen in this campaign against Jim Jensen. Accusations coming this late, like those made on Jim are difficult to respond to at this late hour. I urge you to disregard last minute mud-slinging and not let it affect your vote. I've known Jim Jensen for many years and can certainly attest to his honesty, sincerity, and concern for the people. He will make a terrific representative for Dist. 66.

Sincerely,

Tom Towe, State Senator — Billings

Dear H.D. 66 Voter:

I hate negative campaigning. However, at this moment my personal honor and character are at stake. Tillie Pierce, my opponent has distributed to your doors a letter signed by Mr. Neal Kirkness in which every statement is a LIE. By the way, Mrs. Pierce's son (Dave) just recently purchased Mr. Kirkness's local bar.

First, I do live at 128 Alderson. Ask my neighbors or anyone who knows me. Mr. Kirkness has never spoken to me.

Second, I do not own any property in Missoula County. I lived at 301 South 2nd West, Missoula while I was in graduate school at the U. of M.

Third, I DID VOTE IN THE PRIMARY. The official canvas of the election says so. So, I am obviously registered to vote in the district. My voter I.D. number is 528-56-5171.

Finally, as is clearly stated in my brochure, I lobbied for the Low Income Senior Citizens group during the 1981 Legislature. I am proud of it.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Jensen". The signature is written in dark ink on a white background.

Representative JIM JENSEN, District 66
Testimony on HB 393 - January 25, 1982
Before the House Committee on State Administration

Mr. Chairman, members of the Committee, and interested parties:

House Bill 393 is an attempt to do one central thing: allow voters to make decisions after hearing both sides of all political issues. Currently, last minute statements during a campaign usually have the effect of not allowing a response. This in turn prevents the voting public from hearing both sides. Thus, ^{comes} the possibility of untruths and blatant distortions having unfair impact.

This bill's protection is particularly needed in light of the judicial findings that "public persons have very limited protection from libelous statements".

This bill, in no way, interferes with freedom of speech. It merely requires that (Section 1) both sides have the ability to make their arguments before the public. I believe the voting public is, in a real sense, a jury, and ought to hear both sides. Anyone who objects to that scrutiny is surely suspect.

Finally, Section 4 puts teeth into this bill and will be a sufficient deterrent to insure compliance.

Thank you.

October 3, 1982

Dear Fellow Voter:

As a life-long Democrat and a concerned voter. I am upset about a last-minute campaign letter put out by the Democrat candidate for State Representative in H. D. 66, Jim Jensen.

MR. JENSEN STATES:

"...our home is at Alderson number 128..."

"...we pay property taxes there..."

"...I have, of course voted there..(HD 66) in the past..."

he thinks..."creatively and independently..."

I always try to support the best qualified candidate for any office. Because of Mr. Jensen's misleading and deceptive tactics, I do not feel he is a qualified candidate for the office.

THE TRUTH IS:

He is not listed as an owner of any property in Yellowstone County. (Office of Clerk and Recorder)

He pays taxes at this address:
James D. Jensen
302 South 2nd West
Missoula, Montana
(10-15-82), Missoula County
Treasurer's Office)

He is still a registered voter in Missoula County.
(10-15-82) Secretary of State's Office


Mr. Jensen did not even register to vote in Yellowstone County until after he had filed for election in H. D. 66.

He did not vote in the primary election. (Voter Registration Book)

He applied for, but was denied an appointment to a vacated State Senate seat in Missoula County in 1981.

How can he when he's a registered lobbyist? (Registration in the Secretary of State's Office). 1981-1982
James D. Jensen
302 South 2nd West
Missoula, Montana

Sincerely



Neal C. Kirkness
City of Billings Council
Ward 3

VISITOR'S REGISTER

HOUSE _____

COMMITTEE _____

BILL H.B. 233

DATE 1-25-83

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
B. H. Romaine	Helena	Clerks & Recorder	x	
Cliff Christian	"	Sec of STATE	x	
Marian Campbell	"	" " "	By request	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME: Bill Rovine DATE: 1-25-83

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? Clerks & Recorders

APPEARING ON WHICH PROPOSAL: H.B. 233

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: This bill makes it clear that the municipal voting information is limited to municipal elections only. Under current law, it appears that the records to be kept are to include the votes in the municipality at general or county elections. This will clarify the law & make it workable.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

H B 233

COUNTY COMMISSIONERS:

ERNIE ICOPINI, Chairman
HENRY DeCOCK, Member
ALEX WETSCH, Member

OFFICE OF

County Clerk & Recorder

Telephone - 342-5547

OF TREASURE COUNTY

HYSHAM, MONTANA 59038

KAY REXFORD
County Clerk and Recorder

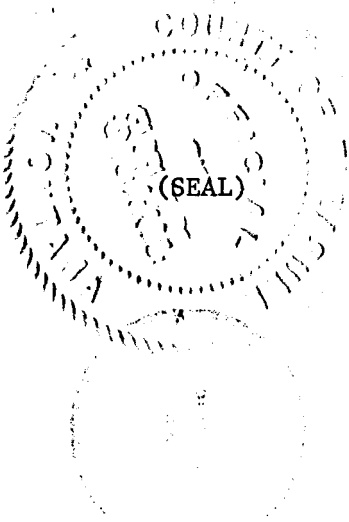
November 4, 1982

STATE OF MONTANA)
COUNTY OF TREASURE) SS

The undersigned being duly elected Election Administrator for Treasure County charged by law with the compiling of the results of elections conducted within the County does certify that:

- (1) The information to be entered on record pursuant to 13-15-404, Montana Code Annotated, requires that votes be listed by precinct, municipality, district, or portion of a district in the county and the total in the county.
- (2) The precincts in Treasure County are established without reference to municipal boundaries and that the Town of Hysham is included within Precinct No. 4 which includes area and voters outside the Town of Hysham.
- (3) It is impossible to determine votes by municipality in this county.

ATTEST my hand and seal of Treasure County this 4th day of November, 1982.



Kay Rexford
 Kay Rexford
 Election Administrator
 Treasure County, Montana

County Canvassers:

Henry De Cock
 Henry De Cock

Ernie Icopini
 Ernie Icopini

Alex Wetsch
 Alex Wetsch

DEPARTMENT OF STATE LANDS TESTIMONY ON HOUSE BILL NO. 255

BEFORE THE HOUSE STATE ADMINISTRATION COMMITTEE

The Department of State Lands supports House Bill No. 255.

At the present time the Department is requiring appraisals by qualified appraisers on all land exchange proposals. Also, the few sales that have been held over the past few years have included an appraisal by a qualified appraiser.

The Department is required to insure that the state receives full market value for all interests it grants. This bill will help insure that full market value is received.

WITNESS STATEMENT

Name Lyle Manley Committee On State Admin.
Address Dept. State Lands Date Jun. 25, 1983
Representing " " " Support X
Bill No. HB 255 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. See prepared comments

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



TED SCHWINDEN
GOVERNOR

State of Montana
Office of the Governor
Helena, Montana 59620

January 17, 1983

RECEIVED
THOMAS, DEAN & HOSKINS

TH

JAN 20 1983

Mr. James A. Cummings, President
Consulting Engineers Council of Montana
1200 25th Street South
Great Falls, Montana 59405

Hwy.	Struct.	Municipal
_____	_____	<u>JAC</u>
Job No.	_____	_____

Dear Mr. Cummings:

Attached is the proposed Management Memo to be issued in early February, 1983, following final review by all state agencies and by your organization. You will note that there have been two changes to the wording of what has been identified as the "fourth draft" of the recommended selection procedures:

- 1) The selection procedures will apply to all selection of private consultants by state agencies, whether exempt from Title 18, Chapter 8, Part 1 or non-exempt. This means that there will not be separate guidelines applied for consultant selection among state agencies.
- 2) The word "proposed" has been inserted in the last sentence in procedure number three, "Selection."

We greatly appreciate the efforts of you and of other members of your organizations to arrive at a set of procedures that accommodate two somewhat divergent points of view.

We ask that you address any immediate questions and comments to Sib Clack no later than February 1, 1983. We look forward to your continued input during the year ahead.

Sincerely,

DAVID E. WANZENRIED
Executive Assistant

RECOMMENDED PRIVATE CONSULTANT SELECTION PROCEDURES

INTRODUCTION

Contracting with individuals or organizations for various professional services is a recognized alternative for accomplishing some functions of State government. Department Directors or the person or persons charged by law with the ultimate responsibility for administering each State agency have the full authority and responsibility for determining the need for and securing the outside contractual help. These guidelines are intended to provide direction for the procedures to be carried out when selecting individuals or firms to provide private professional consultant services within the authority of each agency. For the purposes of these guidelines, the following definitions shall apply:

Professional Consultant Services - Services provided to a State agency by a private consultant under an independent contract.

Private Professional Consultant - Professional individual or firm providing professional consultant services to a State agency and compensated with assets of Montana State government.

In selecting a private professional consultant, it is expected that the State agency will base its choice on demonstrated competence, knowledge and qualifications and that contractual agreement will be dependent upon successful negotiation of a reasonable fee for the services. Further, if all other considerations are comparable, it is expected that preference will be given to a private consultant who is a bona fide resident of Montana and whose principal place of business is within the State or who will manage the consulting engagement wholly from one of its offices within the State.

BASIC SELECTION PROCEDURES

The following basic selection procedures shall be used as guidelines in an agency's selection of a private professional consultant:

1. Notification - Notice of a proposed contract should be given to all known qualified consultants if the amount of the proposed contract will exceed \$5,000. Notice should include, at minimum, preliminary project description, the procedures and selection criteria which the agency will use to select the finalists for the contract for services, budget ceiling, closing date for indication of interest and agency contact.
2. Initial Screening - When response to project notification is in excess of three qualified consultant firms or individuals, designated agency personnel shall apply

predetermined preselection criteria to the qualifications, demonstrated competence, knowledge, specific expertise relative to the project and the previous work for the State of the applicants and shall determine no less than two consultant firms or individuals for further consideration. Applicants who are no longer under consideration should be notified by the agency.

3. Selection - Selection of the consultant individual or firm with whom contract negotiation will begin shall be determined on the basis of evaluation and rating of not less than two, nor more than three, qualified finalists. Predetermined criteria for selection shall include consideration of the applicants' capacity to perform the work in the time required, the expertise to be applied to the project tasks, estimated total number of hours, approach to performing project activities and other criteria considered by the agency to be pertinent to selection for the specific project. Proposed cost estimates associated with estimated hours will not be binding and shall not restrict the negotiation of the consultant fee with the top-ranked consultant firm or individual selected.

4. Negotiation - Negotiation of consultant fee for the defined scope of services shall begin with the top-ranked consultant firm or individual selected. If agreement to a fee considered by the agency to be reasonable cannot be reached with the top-ranked firm or individual, negotiation shall terminate and be begun with the next-ranked consultant firm or individual. Negotiation shall end when a reasonable fee has been agreed to by the agency and the selected consultant firm or individual in order of ranking.

Professional personal service contract requirements are addressed in Management Memo 4-81-4 and will apply to contractual considerations.

WAIVER OF SELECTION PROCEDURES

An agency may waive all or some of the basic selection procedures only for predetermined reasons. Allowable waiver conditions are:

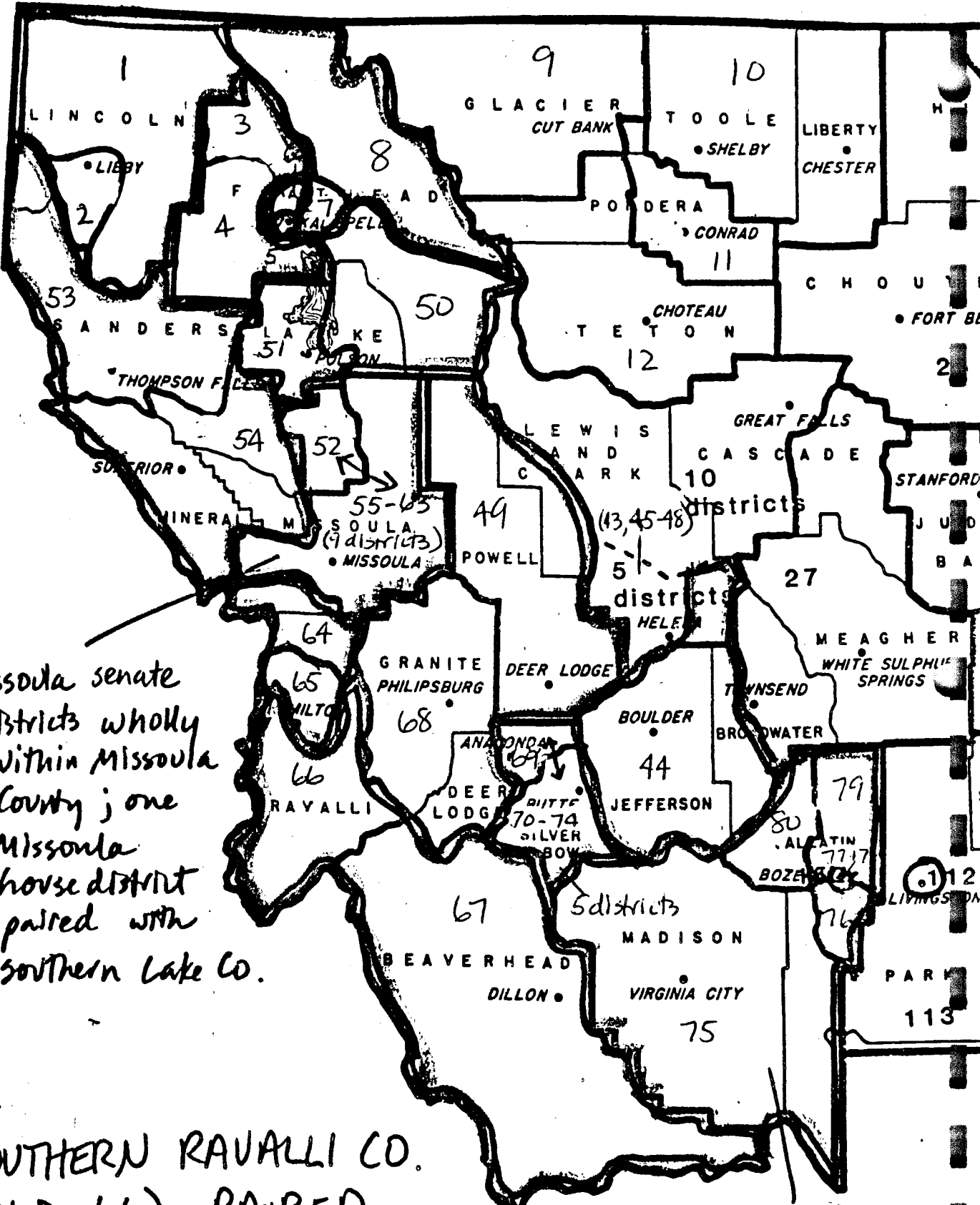
1. A bona fide emergency situation exists.
2. A documented sole source or proprietary product or process is required.
3. Conflicts with regulatory time frames or statutory deadlines do not allow compliance with the selection procedures.

Waiver criteria must be clearly specified and documented prior to selection activities.

ADMINISTRATIVE CONSIDERATIONS

Each agency contracting professional consultant services shall specify its operant selection procedures in writing, including specification of waiver conditions applicable to the work of the agency that is contracted.

No. 1051 — County outline Map (50 to a pad) STATE PUBLISHING CO. HELENA, MONT.
Fold to here to fit standard binder

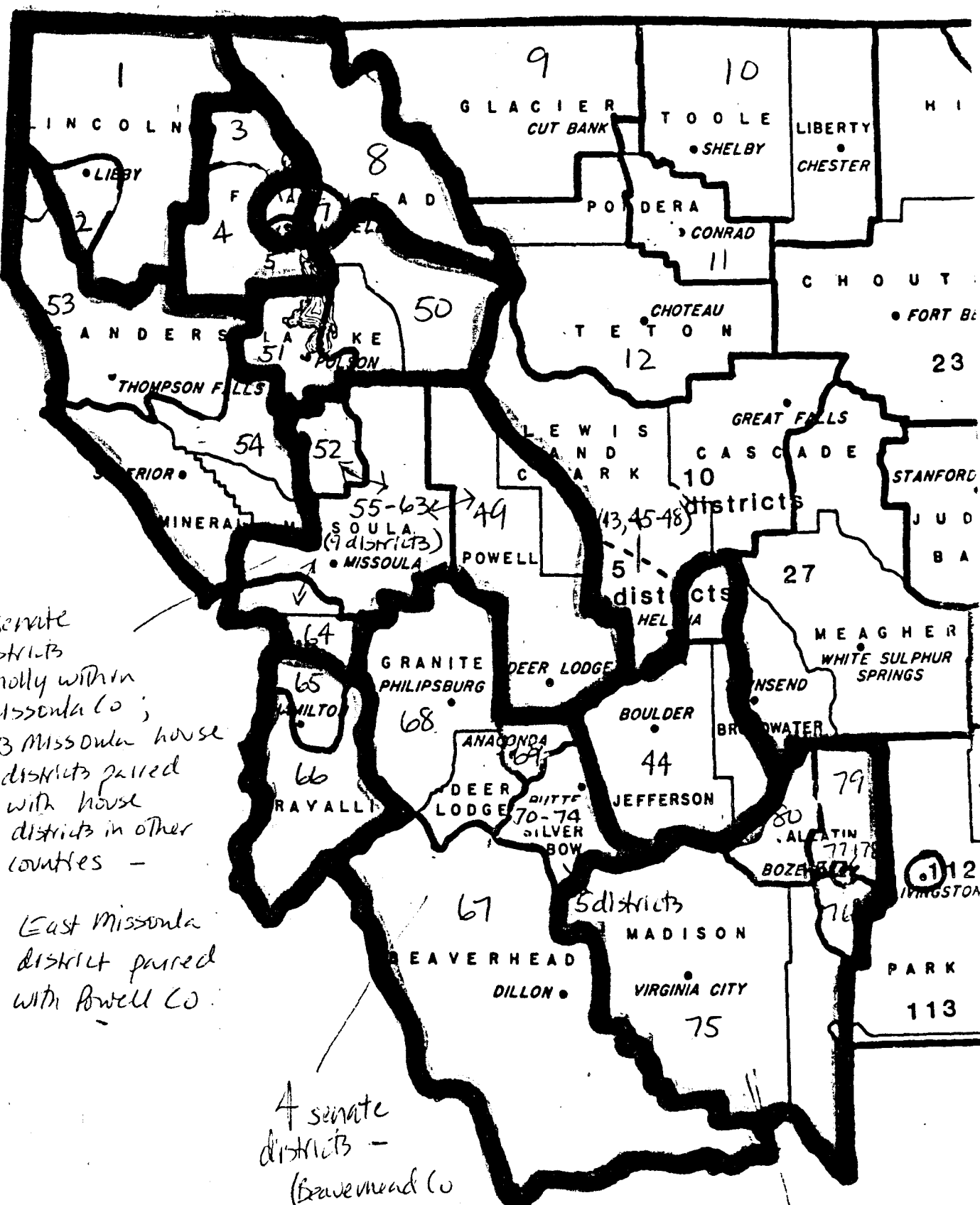


4
Missoula senate districts wholly within Missoula County; one Missoula house district paired with southern Lake Co.

SOUTHERN RAVALLI CO.
(H.D. 66) PAIRED
WITH BEAVERHEAD CO.
(H.D. 67)

3 senate districts from house district 75-80

Fold to here to fit standard binder



3 senate districts wholly within Missoula Co;
3 Missoula house districts paired with house districts in other counties -

East Missoula district paired with Powell Co.

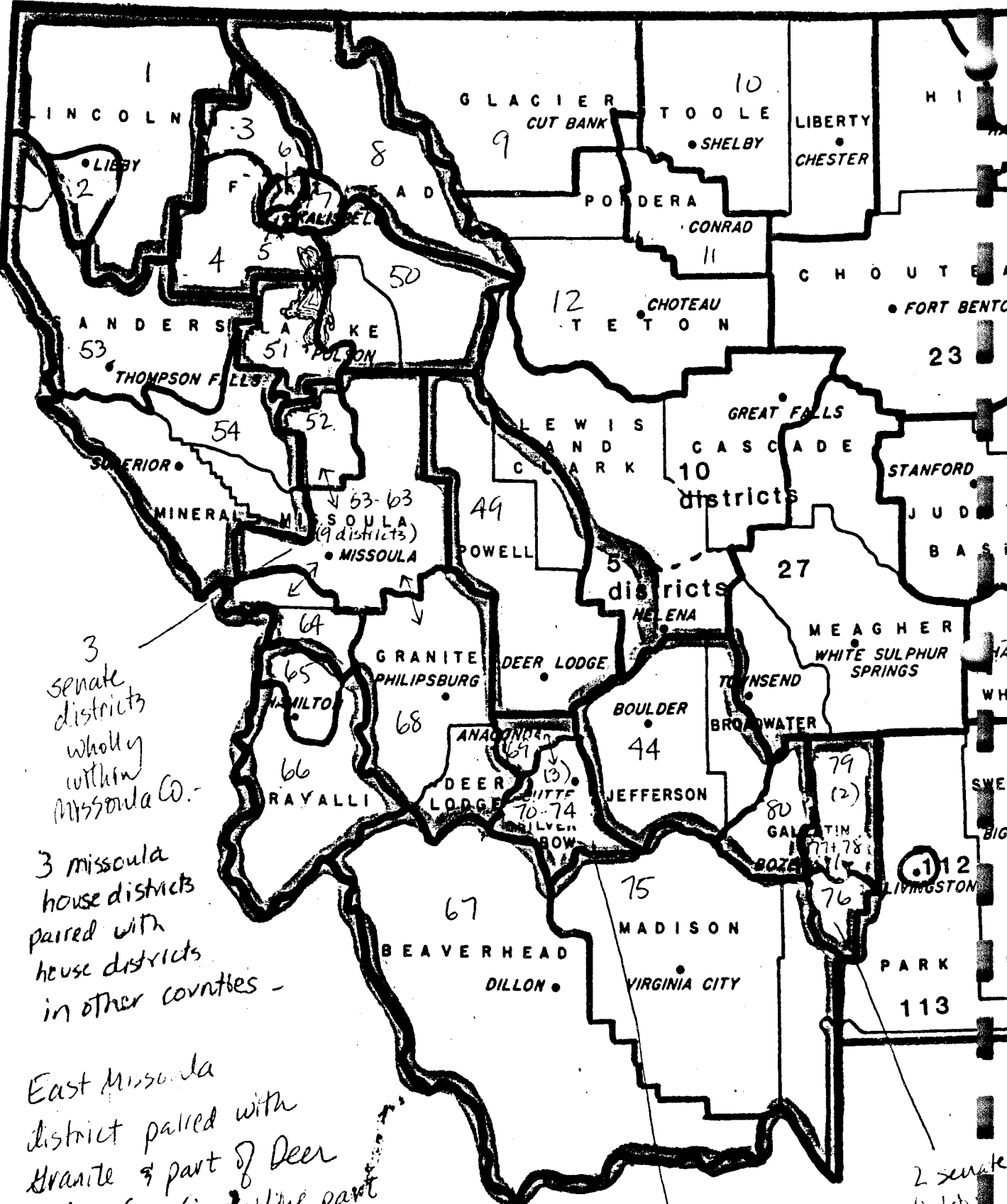
4 senate districts -
(Beaverhead Co (HD 67) with either Granite/Deer Lodge (HD 68) or with Silver Bow Co (HD 74))

3 senate districts from house districts 75-80

No. 1051 - County outline Map (50 to a pad)
STATE PRINTING CO. HELENA, MONT.

LEGISLATIVE HOUSE DISTRICTS TENTATIVE
MONTANA

Fold to here to fit standard binder



No. 1051 — County outline Map (50 to a pad) STATE PUBLISHING CO. HELENA, MONT.

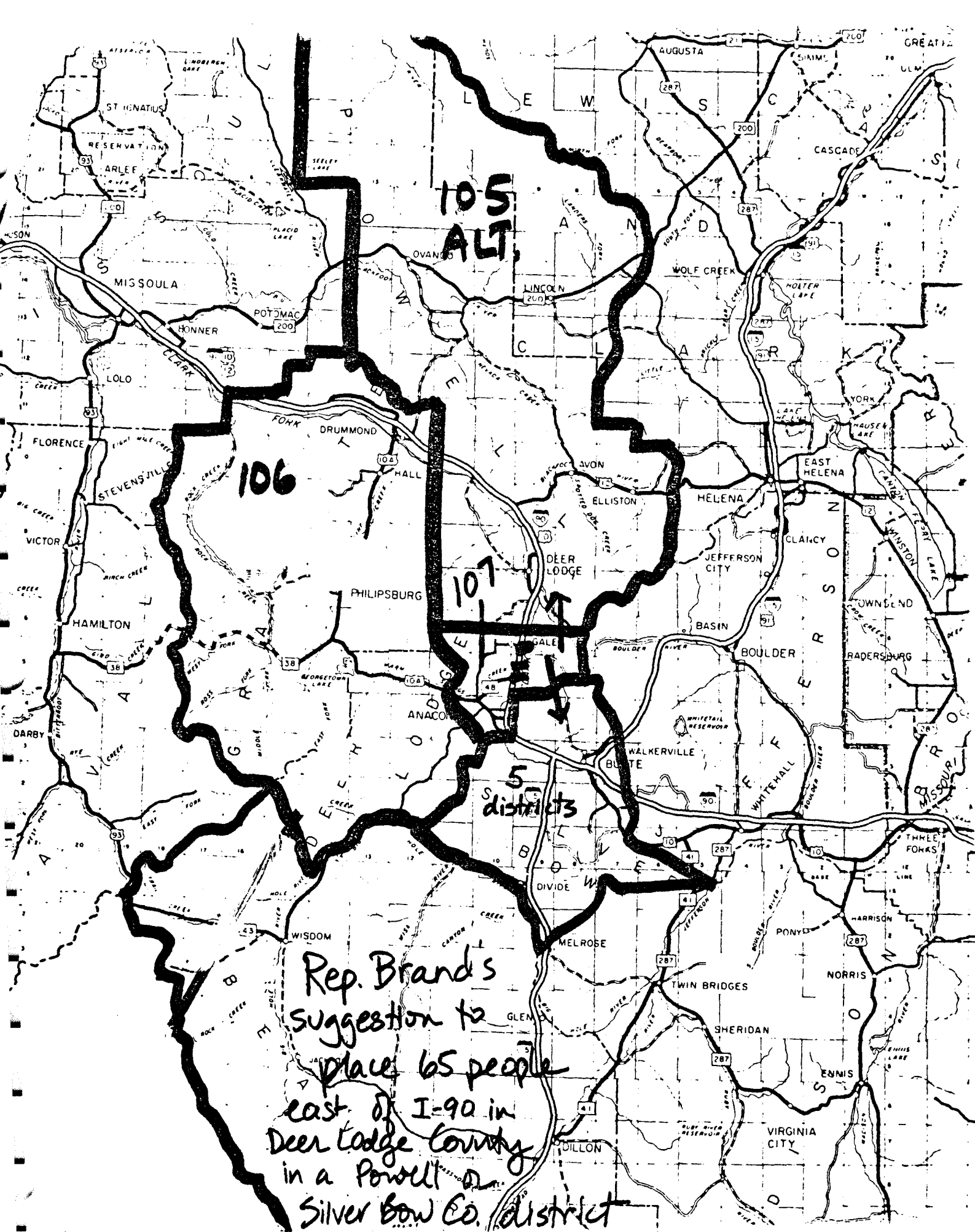
3 senate districts wholly within Missoula Co. -
3 missoula house districts paired with house districts in other counties -

East Missoula district paired with Granite & part of Deer Lodge Co. (including part of Anaconda)

Powell Co. district paired with Lewis & Clark west valley district

3 senate districts

2 senate districts



105
ALT.

106

107

5
districts

Rep. Brand's
suggestion to
place 65 people
east of I-90 in
Deer Lodge County
in a Powell or
Silver Bow Co. district

NAME: Bill Romine DATE: 1-25-83

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? Clerks & Recorders

APPEARING ON WHICH PROPOSAL: H.B. 288

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Since it is a state requirement that the voter information pamphlet be sent to all registered voters and since ballot issues are of statewide importance, it only seems fair that the state pay the cost of the postage.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

Name Howard Schwantz House
Committee On State Administration
Address Missoula Date Jan 25, 1983
Representing Missoula Co. Commissioners Support ✓
Bill No. HB 288 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Basic Principle - the state should bear the cost of programs it creates & mandates
2. Voter pamphlets deal with state referendums, initiative & candidates - they are of state wide interest
3. Counties are burdened with a great many state mandates; although the cost of voting mailing voter pamphlets is small - about \$4,000 per general election - when it is added to
4. all of the others, the total of our costs to carry out state mandates is considerable.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Lloyd Crippen Committee On State Adm.
Address Helena Date 1/25/63
Representing NFIR Support ✓
Bill No. HB 375 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.

- 2.

- 3.

- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Ron Brown Committee On State Admin
Address _____ Date 1/25/83
Representing SPS Support _____
Bill No. 315 Oppose _____
Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.