

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 31, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. on the above date in Room 317, State Capitol.

ROLL CALL: Sixteen members present with Reps. Kennerly and Pistoria absent.

CONSIDERATION OF HOUSE BILL NO. 288: Rep. Thoft, District #63, sponsor of the bill, told the Committee that the bill changes the election laws in the state of Montana because the State is currently being sued by the federal government over the issue of absentee ballots. He handed out a fact sheet to the members which is attached as Exhibit #1.

PROPONENTS: Betty Lund, Election Administrator from Ravalli County, which is an appointed office and not elected, said that the bottom line is that in November of 1984 the State of Montana was sued by the federal government because the ballots were not out 45 days before the election. There is a 14 day deadline and that is not enough time for overseas mail. The canvassing of votes was not finished until 14 days after the election. As far as printing, this would give the printers one more day which is not a lot, but she said that the election administrators may have to work more closely with the printers to see that the work is done on time. She didn't think this was really a problem if there is a good printer.

She went on to explain the fact sheet, Exhibit #1, which was handed out by Rep. Thoft. She also said she called the Justice Department in Washington, D.C. and asked how many days they would give the State or if they would compromise. They told her they would not compromise and they would sue the State every year until complying with the law. The last page of the factsheet shows the present dates and law and what it would be if this bill is passed.

Mike Meloy, Montana Press Association, said that this bill ought to be considered with the other election bills in subcommittee to coincide the dates because it takes about three weeks to print the ballots.

Mike Stephens, Montana Clerk and Records' Association, handed out some proposed amendments, attached to the minutes, and also suggested an effective date of January 1, 1986 would be comfortable for most of their members.

Chip Erdmann, Montana School Boards Association, supported the concept of the bill, but said that Section 32 causes a problem with school elections. This would not give time for three levy elections and asked the Committee to keep this in mind when final consideration is taken by the Committee.

Larry Akey, Secretary of State's Office, supported the bill. He said it is the only alternative to be sued by the federal government for noncompliance.

Joanne Peres, Chouteau County Clerk and Recorder, was in support of the bill.

OPPONENTS: Bob Laumeyer, Superintendent of Schools, Boulder Public Schools, was not in favor of the bill. He said the school elections are the second Tuesday in April and at that time there is no indication from the Legislature what the funding will be and said that possibly school elections could be excluded from this.

There being no further proponents or opponents, the Committee then asked questions.

DISCUSSION OF HOUSE BILL NO. 288: Rep. Peterson asked if all counties are in the same type of situation. Ms. Lund stated it is a statewide problem. Rep. Peterson also asked if there was anything in the federal law that addresses the school situation that was presented at the meeting. Ms. Lund replied that they do not do the school elections unless they are requested to do so. She deferred to Mr. Akey on the question.

Mr. Akey said that there is no special section in Title 20 for absentee ballots. In that event, Title 13 becomes applicable. He didn't think it was a significant problem. They would just tell the officials to get the ballots out as quickly as possible and told the committee that this situation does not warrant rejection of the bill.

Rep. Cody said that many things can change in 45 days, including the ballot and Ms. Lund said that the withdrawal period at the present is 30 days. This would be changed to 75 days.

There were no further questions from the Committee.

Rep. Thoft closed his presentation saying that the Committee could consult with Mr. Akey or Ms. Lund if they have problems with the bill.

CONSIDERATION OF HOUSE BILL NO. 289: Rep. Bob Marks, District #75, sponsor, introduced this bill to change the name of the Boulder River School and Hospital to the Montana Developmental Center. The facility is no longer accredited with the State as a hospital and the educational facilities provided are a development process. The name change would more clearly reflect the real function of the facility. He said there were several people present to testify in support of the bill.

PROPOSERS: Bill Shoquist, who chaired the committee that was formed to come up with a change of name, said they advertised

in the newspaper for two weeks, inviting everyone to send in names and also offered a \$25 prize. After three weeks they narrowed those 50 name suggestions down to five and then chose the Montana Developmental Center from those five. Two or three agencies had recommended a name change because there seemed to be a stigma attached to BRS&H.

Bob Laumeyer, Boulder, said a new name would certainly fit the function of the facility better than BRS&H. "School" is not a good descriptive name because it is primarily a developmental training center at this time.

Nick Roetering, Attorney for the Department of Institutions, said they would have no problem with the change and that it would have a minor effect on the administrative rules.

Bobbi Sutherland, Boulder, a former nurse at the Hospital said that Boulder's image has been pretty low. The facility is no longer a hospital and said that people would come in to the facility, while traveling through Boulder, thinking it was a hospital. It is now an intermediate care facility with 24 hour nursing care. They do have school for about 26 school age children but said that next year this would probably drop to about 18. Someone within the Department of Institutions asked if they could come up with a new name.

There were no further proponents.

OPPONENTS: There were no opponents.

Without further comment, Rep. Marks closed on HB 289.

CONSIDERATION OF HOUSE BILL NO. 297: Rep. Duane Compton, District #17, sponsor, said that the 1983 legislature passed a bill to place the leaf-cutter bee laboratory at MSU in Bozeman. In the meantime, it was moved to Helena because of personnel living in Helena and was a cost saving measure. The attorney advised them they could move the laboratory. He told the Committee that Keith Kelly was present and would answer any questions from the Committee.

PROPOSERS: Keith Kelly, Director of the Department of Agriculture, said that the bill said may develop and maintain the laboratory at MSU. Since moving the laboratory to Helena they have been able to drop the fees from \$25 to \$20 to run samples. There were 345 samples ran last year and they knew it could be done cheaper.

There were no further proponents.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 297: Rep. Fritz asked how the

attorney could tell them it was legal to move the laboratory to Helena when the law says MSU. Mr. Kelly said the law says "may" not "shall" and that is what they relied upon.

In answer to Rep. Jenkins Mr. Kelly explained the process of running samples in the laboratory on the larvae to check for disease. Montana is one of the cleanest bee producing states in the nation as far as disease is concerned and they can consequently demand more for their bees. Cutter bees are used for pollination of alfalfa and can increase the yield per acre from 600 to 2400 pounds. These bees are for pollinating only, not for honey.

There being no further questions, Rep. Compton closed on HB 297.

CONSIDERATION OF HOUSE BILL NO. 302: Rep. Jan Brown, District 46, said that this bill repeals the Interstate Civil Defense and Disaster Compact and enacts in its place an Interstate Mutual Aid Compact. She read her prepared testimony which is attached as Exhibit #2.

PROPOSERS: Jan Henry, Department of Military Affairs, appeared before the Committee in support of HB 302. He said this would revise a law enacted approximately 34 years ago and said it would cost essentially nothing to implement. He said it would save lives and reduce property damage because of quick response from different states. If the bill is not passed there would still be the existing law but it is somewhat archaic and would impede other states helping Montana and Montana helping them.

Dennis Hemmer, Department of State Lands, proposed an amendment on page 1, line 21 deleting "that does not border this state".

There were no further proposers.

OPPOSERS: There were no opposers to the bill.

DISCUSSION OF HOUSE BILL NO. 302: There were no questions from the Committee.

Rep. Brown closed without further comment but did state that the amendment met with her approval.

The Committee then went into executive session.

Rep. O'Connell said that she had talked to Rep. Winslow about the Committee reconsidering HB 281. Chairman Sales said it would be brought up at the end of executive session.

DISPOSITION OF HOUSE BILL NO. 288: Chairman Sales told the Committee that HB 288 should be placed in the election subcommittee

for further study concerning dates that might conflict.
Rep. Cody moved the ADOPTION OF THE PROPOSED AMENDMENTS,
seconded by Rep. Garcia. Motion CARRIED UNANIMOUSLY.

Rep. O'Connell then moved that HB 288 AS AMENDED, be referred
to the election subcommittee. Motion seconded by Rep. Garcia.
Motion CARRIED UNANIMOUSLY. Chairman Sales told the sub-
committee to also clear up any problem with the school
elections.

DISPOSITION OF HOUSE BILL NO. 289: Rep. Smith moved that HB
289 DO PASS, seconded by Rep. Hayne. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 297: Rep. Phillips moved that
HB 297 DO PASS, seconded by Rep. Moore. Motion CARRIED UNANI-
MOUSLY.

DISPOSITION OF HOUSE BILL NO. 302: Rep. O'Connell moved the
ADOPTION OF THE AMENDMENT, seconded by Rep. Smith. The
Motion CARRIED UNANIMOUSLY.

Rep. O'Connell then moved that HB 302 AS AMENDED DO PASS WITH
STATEMENT OF INTENT ATTACHED, seconded by Rep. Harbin. Motion
CARRIED UNANIMOUSLY.

FURTHER CONSIDERATION OF HOUSE BILL NO. 204: HB 204 had been
submitted to a subcommittee for possible drafting of a committee
bill or amendments to HB 204. Rep. Moore, chairman of the suj-
committee, reported that they had reached some conclusions as
to what the appraisers could and could not do. Lois Menzies,
Staff Researcher, read the proposed Committee bill to the
Committee and said that Rep. Pistoria was satisfied with the
bill. This is what he intended and would eliminate the conflict
of interest for Department of Revenue employees.

Rep. Nelson moved ADOPTION OF THE COMMITTEE BILL, seconded by
Rep. Smith. Needing a 3/4 vote of the voting members present,
the Adoption of the Committee Bill carried with a vote of 14-2
with Reps. O'Connell and Campbell voting "no".

DISPOSITION OF HOUSE BILL NO. 204: Lois told the committee
that Rep. Pistoria's bill, HB 204, needed executive action.
Rep. Fritz moved that HB 204 DO NOT PASS, seconded by Rep.
Moore. Motion CARRIED UNANIMOUSLY.

FURTHER CONSIDERATION OF HOUSE BILL NO. 281: Rep. Peterson
stated that if she was in a position to need the assessor or
his designee to make some judgments, she wanted the person she
voted for and who lived in her county to be at the hearing.
Rep. Harbin expressed the same views. Rep. Jenkins asked if
the county assessor and the agent have been at these hearings.
Rep. Phillips said they have been allowed to do so under the
present law and did not feel a bill is needed for this. He said

State Administration Committee
January 31, 1985
Page 6

that a lot of these bills in the Committee are simply an expansion of power for some agency. Rep. Harbin asked why there has been so much pressure since yesterday when the bill was heard but it was felt that it was not so much pressure as a misunderstanding. The members of the Committee said they wanted the Do Not Pass to stand, therefore, Rep. Harbin moved that the Committee NOT RECONSIDER HB 281, seconded by Garcia. Motion CARRIED with Rep. O'Connell voting "no".

There being no further business, the Committee adjourned at 10:19 a.m.



WALTER R. SALES, Chairman

STANDING COMMITTEE REPORT

January 31

19³⁵

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 204

First reading copy (White)
color

APPRAISERS TO WORK UNDER COUNTY ASSESSOR SUPERVISION

Respectfully report as follows: That HOUSE Bill No. 204

DO NOT PASS

~~DO PASS~~

STANDING COMMITTEE REPORT

January 31

1905

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 239

First reading copy (White)
color

**BOULDER RIVER SCHOOL AND HOSPITAL RENAMED MONTANA DEVELOPMENTAL
CENTER**

Respectfully report as follows: That HOUSE Bill No. 239

DO PASS

STANDING COMMITTEE REPORT

January 31

25

19.....

MR. SPEAKER.....

We, your committee on STATE ADMINISTRATION.....

having had under consideration HOUSE..... Bill No. 297.....

First reading copy (White color).....

REMOVES REQUIREMENT THAT LEAF-CUTTING BEE LABORATORY BE LOCATED
AT MSU

Respectfully report as follows: That HOUSE..... Bill No. 297.....

DO PASS.

STANDING COMMITTEE REPORT

January 31

95

19

SPEAKER

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

having had under consideration Bill No. 302

First

reading copy (**White**)
color

ADOPTS INTERSTATE MUTUAL AID COMPACT

Respectfully report as follows: That **HOUSE** Bill No. 302
BE AMENDED AS FOLLOWS:

1) Page 1, line 21.

Strike: "that does not border this state"

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

It is the intent of this bill to allow the governor to enter into interstate mutual aid agreements with other states for the purposes of:

(1) providing state resources such as manpower, equipment, and material; and

(2) coordinating the provision of volunteer resources to assist other states in response and recovery activities relating to earthquakes, floods, and other disasters.

The governor shall enter these agreements and shall provide for their implementation, including the appointment of contact persons within this state and establishment of a contact procedure with participating states.

Although the governor is charged with implementation of this bill, he may delegate authority to the department of military affairs or other appropriate agency for day-to-day administration of the compact.

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/31/85

| NAME | PRESENT | ABSENT | EXCUSED |
|----------------------------|---------|--------|---------|
| Chairman Walter Sales | ✓ | | |
| V-Chairman Helen O'Connell | ✓ | | |
| Campbell, Bud | ✓ | | |
| Compton, Duane | ✓ | | |
| Cody, Dorothy | ✓ | | |
| Fritz, Harry | ✓ | | |
| Garcia, Rodney | ✓ | | |
| Hayne, Harriet | ✓ | | |
| Harbin, Raymond | ✓ | | |
| Holliday, Gay | ✓ | | |
| Jenkins, Loren | ✓ | | |
| Kennerly, Roland | | | |
| Moore, Janet | ✓ | | |
| Nelson, Richard | ✓ | | |
| Peterson, Mary Lou | ✓ | | |
| Phillips, John | ✓ | | |
| Pistoria, Paul | | | |
| Smith, Clyde | ✓ | | |
| | | | |
| | | | |
| | | | |

Ex. #1
1/31/85
HB-288

FACT SHEET FOR
HOUSE BILL 288

1. State of Montana was sued on October 31, 1984 because our election law gives the counties until 14 days before the election as a deadline for mailing absentee ballots. See MCA 13-13-222. The Federal government requires a 45 day deadline. The Overseas Citizens Voting Rights Act, 42 U.S.C. 1973dd et seq., and the Federal Voting Assistance Act, 42 U.S.C. 1973cc (b) require that the states mail absentee ballots at least 45 days before the election. Therefore, the State of Montana counties had to hold the results open and could not declare any candidates as winners until 14 days after the election, giving the overseas ballots time to be received by the Election Administrators. There were 1811 international absentee ballots mailed out through out the State of Montana, 1290 were received before the polls closed on election day, 229 were counted at the end of the 14 day extension period.

2. This new bill gives the Election Administrators from two to seven more days ballot printing time.

3. This new bill gives the overseas voters more time to apply for a ballot, receive, vote and return it to the Election Administrator.

4. This new bill moves up the withdrawal deadline, therefore allowing the printers to begin printing immediately instead of waiting until 30 days before the election to make sure everything on the ballot will remain there.

5. This new bill allows a full time span for special district elections such as water/sewer district. The election date being set at "no less than 75 or more than 90 days" is the answer Election Administrators have been looking for.

6. Opponents of this bill believe that because the filing deadline has been moved up 25 days that the campaign period will be lengthened. Most serious candidates file in the first part of January but usually do not start to campaign until around the first part of May.

BALLOT SCHEDULE

UNDER LAW AS IT EXISTS TODAY:

| | | |
|--|--|-------------------------------|
| Certification of Secretary of State to Election Administrator | Not more than 50 days and not less than 42 days before election | |
| Election Administrator takes ballot to Printer | Not more than 40 days and not less than 30 days before election | Not more than 40 |
| Printer delivers ballot to EA | 14 days before election | Deadline $\frac{14}{26}$ days |
| | | Not less than 30 |
| | | Deadline $\frac{14}{16}$ days |

H.B. 288 AS AMENDED

| | | |
|--|--|-------------------------------|
| Certification of Secretary of State to Election Administrator | Not more than 75 days and not less than 67 days before election | |
| Election Administrator takes ballot to Printer | Not more than 67 days and not less than 62 days before election | Not more than 67 |
| Printer delivers ballot to EA | 45 days before election | Deadline $\frac{45}{22}$ days |
| | | Not less than 62 |
| | | Deadline $\frac{45}{17}$ days |

ALAN D. ROBERTSON
Chief Legal Counsel
Office of the Secretary of State
State of Montana
State Capitol
Helena, MT 59620
(406) 444-2034

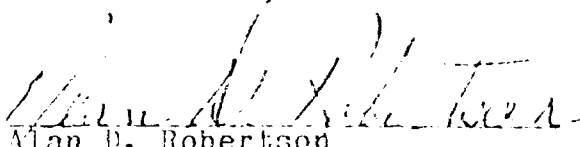
ATTORNEY FOR DEFENDENT
WALTERMIRE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

| | | |
|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA |) | NO. CV-84-266-H |
| |) | |
| Plaintiff, |) | DEFENDENT WALTERMIRE'S |
| |) | REPORT TO THE COURT |
| v. |) | |
| |) | |
| STATE OF MONTANA; |) | |
| JIM WALTERMIRE, SECRETARY |) | |
| OF STATE OF THE STATE OF |) | |
| MONTANA, |) | |
| |) | |
| Defendants. |) | |

DEFENDENT JIM WALTERMIRE respectfully submits the attached documents in satisfaction of order item number four of that certain consent decree entered in the above captioned action on November 1, 1984.

Respectfully submitted this 22nd day of December, 1984.


Alan D. Robertson

IN ORDER TO COMPLY WITH THE ORDER OF THE FEDERAL COURT THIS FORM
MUST BE COMPLETED AND RETURNED TO THE SECRETARY OF STATE NO LATER
THAN DECEMBER 14, 1984

COMPLETE FOR ELECTION HELD NOVEMBER 6, 1984

COUNTY STATEWIDE TOTALS

1. Date first Absentee Ballot (any kind) mailed out 10/3/84
2. Date last International Absentee Ballot mailed out 11/5/84
3. Number of International Absentee Ballots mailed 1811
4. Number of valid International Absentee Ballots re-
turned before close of polls 1290
5. Number of International Absentee Ballots returned
after November 6 but before November 20 which were:
 - a) Not counted because signed and dated after
November 6 18
 - b) Not counted because otherwise invalid 16
 - c) Counted pursuant to the Court's Order 229
6. Number of International Absentee Ballots returned
after November 20 and thus not counted 25
7. Number of all Absentee Ballots (not International)
mailed
8. Number of non-international Absentee Ballots re-
turned after close of polls and thus not counted

Signed

Election Administrator

Date

(COUNTY SEAL)

| | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5a</u> | <u>5b</u> | <u>5c</u> | <u>6</u> |
|---------------|----------|----------|----------|----------|-----------|-----------|-----------|----------|
| Beaverhead | 10/10 | 10/12 | 16 | 15 | 0 | 1 | 0 | 0 |
| Big Horn | 10/29 | 10/30 | 10 | 1 | 0 | 0 | 7 | 0 |
| Blaine | 10/18 | 10/24 | 16 | 11 | 0 | 2 | 0 | 0 |
| Broadwater | 10/11 | 10/11 | 12 | 12 | 0 | 0 | 0 | 0 |
| Carbon | 10/17 | 10/18 | 28 | 19 | 1 | 0 | 2 | 0 |
| Carter | 10/9 | 10/9 | 5 | 5 | 0 | 0 | 0 | 0 |
| Cascade | 10/9 | 11/3 | 274 | 238 | 4 | 1 | 15 | 1 |
| Chouteau | 10/10 | 10/18 | 15 | 11 | 0 | 2 | 2 | 0 |
| Custer | 10/7 | 10/17 | 29 | 24 | 0 | 3 | 2 | 1 |
| Daniels | 10/5 | | 0 | 0 | 0 | 0 | 0 | 0 |
| Dawson | 11/8 | 10/22 | 18 | 15 | 0 | 0 | 1 | 0 |
| Deer Lodge | 10/12 | 10/30 | 27 | 23 | 0 | 0 | 3 | 0 |
| Fallon | 10/23 | 10/23 | 5 | 3 | 0 | 1 | 0 | 0 |
| Fergus | 10/17 | 10/17 | 38 | 26 | 0 | 0 | 8 | 0 |
| Flathead | 10/22 | 10/23 | 23 | 9 | 0 | 0 | 4 | 0 |
| Gallatin | 10/13 | 10/29 | 152 | 98 | 0 | 0 | 37 | 3 |
| Garfield | 10/7 | 10/11 | 2 | 1 | 0 | 0 | 0 | 0 |
| Glacier | 10/16 | 10/18 | 10 | 8 | 0 | 0 | 2 | 0 |
| Golden Valley | 10/9 | 10/9 | 4 | 3 | 0 | 0 | 1 | 0 |
| Granite | 10/9 | 10/29 | 14 | 9 | 1 | 0 | 0 | 1 |
| Hill | 10/19 | 10/22 | 24 | 17 | 0 | 0 | 4 | 0 |
| Jefferson | 10/10 | 10/22 | 9 | 8 | 0 | 0 | 1 | 0 |
| Judith Basin | 10/4 | 10/4 | 2 | 2 | 0 | 0 | 0 | 0 |
| Lake | 10/10 | 10/22 | 58 | 36 | 1 | 0 | 9 | 0 |
| Lewis & Clark | 10/16 | 10/25 | 102 | 75 | 0 | 0 | 12 | 0 |
| Liberty | 10/11 | 10/11 | 3 | 3 | 0 | 0 | 0 | 0 |
| Lincoln | 10/23 | 11/5 | 47 | 16 | 1 | 2 | 13 | 15 |
| Madison | 10/16 | 10/23 | 20 | 13 | 0 | 0 | 6 | 0 |
| McCone | 10/9 | 10/12 | 4 | 3 | 0 | 0 | 0 | 0 |
| McPherson | 10/19 | 10/19 | 3 | 3 | 0 | 0 | 0 | 0 |
| Mineral | 10/11 | 10/22 | 13 | 8 | 0 | 0 | 2 | 0 |
| Missoula | 10/18 | 11/5 | 221 | 123 | 7 | 0 | 62 | 3 |
| Musselshell | 10/15 | 10/29 | 9 | 5 | 0 | 3 | 1 | 0 |
| Park | 10/11 | 10/29 | 28 | 21 | 0 | 1 | 1 | 0 |
| Petroleum | 10/15 | N/A | 0 | 0 | 0 | 0 | 0 | 0 |
| Phillips | 10/12 | 10/13 | 6 | 3 | 0 | 0 | 2 | 0 |
| Pondera | 10/10 | 10/10 | 18 | 15 | 0 | 0 | 0 | 0 |
| Powder River | 10/9 | 10/22 | 4 | 2 | 0 | 0 | 1 | 0 |
| Powell | 10/10 | 10/16 | 11 | 11 | 0 | 0 | 0 | 0 |
| Prairie | 10/10 | 10/10 | 8 | 4 | 0 | 0 | 0 | 0 |
| Rawlins | 10/4 | 10/29 | 66 | 49 | 0 | 0 | 3 | 0 |
| Richland | 10/15 | 10/26 | 21 | 14 | 0 | 0 | 4 | 0 |
| Roosevelt | 10/12 | 10/14 | 14 | 11 | 0 | 0 | 0 | 0 |
| Schubert | 10/15 | 10/22 | 6 | 5 | 0 | 0 | 2 | 0 |
| Sandwich | 10/10 | 10/23 | 26 | 16 | 0 | 0 | 5 | 0 |
| Sheridan | 10/11 | 10/12 | 12 | 12 | 0 | 0 | 0 | 0 |
| Silver Bow | 10/12 | 10/19 | 27 | 61 | 1 | 0 | 12 | 1 |
| Stillwater | 10/9 | 10/10 | 12 | 9 | 0 | 0 | 0 | 0 |
| Sweet Grass | 10/11 | 10/11 | 7 | 4 | 0 | 0 | 0 | 0 |
| Teton | 10/11 | 10/11 | 6 | 5 | 0 | 0 | 0 | 0 |
| Toole | 10/12 | 11/2 | 12 | 7 | 0 | 0 | 0 | 0 |
| Treasure | 10/10 | 10/10 | 1 | 0 | 0 | 0 | 1 | 0 |
| Valley | 10/17 | 10/18 | 16 | 12 | 1 | 0 | 1 | 0 |
| Heatland | 10/9 | 10/9 | 9 | 8 | 0 | 0 | 0 | 0 |
| Wibaux | 10/17 | 10/17 | 1 | 1 | 0 | 0 | 0 | 0 |
| Yellowstone | 10/3 | 11/5 | 214 | 181 | 1 | 0 | 0 | 0 |
| TOTAL | | | 1811 | 1290 | 18 | 16 | 229 | 25 |

SECRETARY OF STATE
STATE OF MONTANA

Jim Waltermire
Secretary of State

State Capitol
Helena, Montana 59620

TO: Election Administrators

FROM: Jim Waltermire, Secretary of State

RE: Federal Court Action on International Absentee
Ballots and other Federal Matters.

DATE: November 1, 1984

Yesterday the United States filed suit against the State of Montana regarding counting overseas absentee ballots after election day. And today, a Consent Decree is being entered requiring just that.

This action is part of the Department of Justice's ongoing effort to protect the voting rights of overseas citizens. That effort has resulted in many states being sued over the last six years -- three others on the same day Montana was -- and 19 states now counting at least some absentee ballots after election day.

We were first contacted by the Justice Department shortly after the CI-23 challenge was reported nationally. Their inquiry at that time was regarding how any order requiring reprinting of ballots would affect overseas voters. The law suit was in response to that inquiry.

I want to be clear that the State of Montana had no alternative. The federal law is pretty clear, and once the Justice Department undertook a legal action against Montana, we had no choice but to comply.

A copy of the Decree and Order is enclosed for your reference and review. But let me summarize the major provisions. They are:

1. You are ordered to count and include in the official results international absentee ballots received up to the close of business on November 20th.
2. This applies to all absentee ballots cast pursuant to the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. Basically that means any ballot mailed from outside the territorial borders of the U.S. This includes Canada and Mexico but does not include Alaska, Hawaii, Guam, or Puerto Rico.
3. It does not apply to any other absentee ballot. Any other absentee ballot must be received by you before the close of polls on election day or it must be rejected.
4. You are not permitted to count absentee ballots received after the deadline unless they come within this order (e.g. from another country).
5. It only applies to those international ballots that were: a) signed and dated on or before November 6th; b) received on or before the close of business on November 20th; and c) otherwise valid absentee ballots. If these three conditions are met, the ballots must be counted as validly cast and included in your final official canvass.
6. The ballots can not be counted if they are: a) signed and dated after November 6th; b) received by you after November 20th; c) or invalid for any reason other than being late.
7. You are further ordered to gather certain information and report to the Court by December 21, 1984.
8. There are two ways you can comply with the reporting provision.
 - a) You can report directly to the Court yourself -- your County Attorney could assist you, or
 - b) You can report the required information to us, by December 14th, and we will compile it and report it to the Court for you.

9. We've enclosed a form for your use should you chose to provide us with the information and avoid filing legal documents yourselves. Unless you return this completed form to us by December 14th, we will assume you will be filing your own documents directly.

That's the basic substance of the Court's order, now, how will that affect the canvass? Here are some points about that:

1. Your board of canvassers is still required to meet within 3 days after the election to canvass the returns. They should do that and proceed with the canvass to determine preliminary totals.
2. Since you should have records of everyone to whom an absentee ballot was sent -- and the address to which it was sent -- you may not have to wait the full 20 days.
3. If you did not mail any absentee ballots outside the U.S., then proceed with your canvass as you normally would.
4. If all the absentee ballots mailed outside the U.S. are returned before the close of polls on election day, then you can also proceed with the canvass in the normal fashion.
5. As soon as all your absentee ballots from outside the U.S. have been returned, you can complete the canvass. You don't have to wait the full 20 days if all ballots from other countries are accounted for.
6. In order to assure maximum secrecy for overseas voter's ballots, we recommend the following procedures:
 - a) that you simply collect all absentee ballots received after the election from other countries and retain them unopened until after 1) the close of business on November 20th; or 2) all of those mailed have been returned, whichever is earlier;
 - b) at that time, empanel a special counting board for absentee ballots under section 13-15-104 and process all the absentee ballots returned after the close of the polls at the same time;

- c) validate and count the late ballots according to statutory procedures except as specifically modified by the Court Order;
- d) have the judges report the results as usual;
- e) have the board of canvassers canvass these results as it would other returns;
- f) have the board of canvassers complete the canvass and forward to this office;

Finally, when the lawyers for the Justice Department were in town, they hand delivered a letter concerning two other issues where federal law supersedes Montana Law. These are:

- 1. Voters allowed to be assisted by "any person" of their choosing, not just a judge or qualified elector, and
- 2. Qualification of voters who are unable to sign their name.

A copy of their letter on these matters is enclosed for your reference. Please review it to be sure that your county complies. Basically the rules under federal law are:

- 1. A voter requiring assistance may be assisted by any person of their choice.
 - could include a child in high school
 - could include a friend who is unregistered or otherwise not qualified to vote

except

 - their employer or
 - their union official
- 2. A voter who is unable to sign his name is not required to produce two witnesses to vouch for him and may not be denied the right to vote for failing to do so.

If you have questions on any of this, please consult your county attorney -- or feel free to contact me, my attorney, or the staff in the elections office.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA

| | | |
|--------------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Civil Action No. |
| v. |) | |
| |) | |
| STATE OF MONTANA; |) | |
| JIM WALTERMIRE, SECRETARY OF |) | <u>CONSENT DECREE</u> |
| STATE OF THE STATE OF MONTANA, |) | |
| |) | |
| Defendants. |) | |

A. STIPULATIONS OF THE PARTIES

The United States of America, plaintiff, and the State of Montana and Jim Waltermire, Secretary of State of the State of Montana, defendants, stipulate and agree that:

1. This action was brought by the Attorney General on behalf of the United States to enforce the provisions of the Overseas Citizens Voting Rights Act, 42 U.S.C. 1973dd et seq., and the Federal Voting Assistance Act, 42 U.S.C. 1973cc(b).

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1345.

3. The Overseas Citizens Voting Rights Act guarantees to citizens residing outside the United States the right to register and vote absentee in elections conducted by the

state in which they last were domiciled (provided that certain minimum conditions are met). 42 U.S.C. 1973dd-1. The Federal Voting Assistance Act provides, inter alia, that members of the Armed Forces and merchant marine (and their spouses and dependents) located abroad, who are otherwise qualified to vote, have the right to register and vote absentee in federal elections conducted by the state of their voting residence. 42 U.S.C. 1973cc(b).

4. Under the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act, defendant State of Montana is charged with the responsibility of assuring that state election officials permit Montana voters to exercise their rights guaranteed by the said Acts. Defendant Jim Waltermire, sued in his official capacity as Secretary of State, is the chief election officer of the State of Montana and is responsible for the administration and enforcement of election laws in Montana.

5. The United States, by this action, seeks injunctive relief to remedy the failure of defendants to ensure that those individuals who are qualified and apply for absentee ballots, pursuant to the Overseas Citizens Voting Rights Act and Federal Voting Assistance Act, will be given a reasonable opportunity to execute and return such ballots before the close of the polls on November 6, 1984.

6. Montana election law provides only that absentee ballots must be mailed at least 14 days prior to the election. This, compiled with a late date for certification of the ballot by the Secretary of State (50 days prior to the election), results in preparation and mailing of absentee ballots being delayed until the middle of October.

7. Montana law provides that ballots received after the close of the polls on the day of the election are rejected. Mont. Code Ann. §13-13-232.

8. In 1984, the general election in Montana will be held on November 6, 1984. State election officials have received a substantial number of timely requests for absentee ballots from overseas citizens who are entitled to vote pursuant to the provisions of the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act.

9. In order to allow overseas citizens a fair opportunity to vote by absentee ballot, election officials of Montana must mail the ballots to the voters on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote and return the ballot to the office of the election official by the time the polls close on election day.

10. The mailing time (one way) between the United States and persons in foreign countries varies depending

upon the country of destination. A reasonable period for delivery is estimated by the United States Postal Service and the United States Department of State to be 10-14 days, each way, and the Military Postal Service Agency estimates that 30-35 days are necessary for a complete round trip.

11. Officials of the State of Montana have not mailed absentee ballots to overseas citizens (who have filed timely requests) on a date sufficiently in advance of November 6, 1984 to allow such voters to receive the ballot, cast a vote and return the ballot to election officials by the close of the polls on November 6, 1984. In most sub-jurisdictions of the state absentee ballots were not mailed to overseas voters by the municipal clerks until mid-October, 1984, and it is unlikely that such late mailing will allow ballots to be received, executed and returned by November 6, 1984. For example, Flathead County did not begin to mail ballots to overseas citizens until October 22, 1984, allowing only 15 days for the round trip; Missoula County did not begin mailing these ballots until October 19-23, 1984, allowing only 14-18 days for the round trip; Lewis and Clark County (Helena) began mailing overseas ballots on October 17, 1984; Silver Bow County (Butte) began mailing overseas ballots on October 15, 1984; and Gallatin County began mailing overseas ballots on October 13, 1984.

12. The late mailing of absentee ballots to overseas citizens, coupled with the requirement that ballots be received by the close of the polls on election day in order to be counted, violates the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act.

13. To ensure that all citizens located abroad, protected under the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act and qualified to vote in Montana, have a reasonable opportunity to return their ballots for the November 6, 1984, general election, it is necessary that this Court enter an order extending by fourteen days the deadline for receipt of ballots cast pursuant to the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. Under this extension overseas ballots received by the close of business on November 20, 1984, will be accepted and tabulated in the final election results.

This consent decree is final and binding as to all issues resolved here.

B. ORDER

WHEREFORE, the parties having freely given their consent, and the terms of the decree being fair, reasonable and consistent with the requirements of the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act,

4. Within 45 days after the 1984 general election, defendants shall file a report with this Court, with respect to the 1984 federal elections, which sets forth the following information:

- (a) the dates on which each county began and completed the process of mailing ballots to citizens located in a foreign country for voting in the general election;
- (b) the number of valid absentee ballots, by county, received before the close of the polls in the general election from citizens located in a foreign country;
- (c) the number of absentee ballots, by county, in the general election received after November 6, 1984, which were counted pursuant to this Consent Decree; and
- (d) the number of absentee ballots, by county, in the general election which were received after the close of the polls on election day from citizens located in a foreign country but not counted because signed after November 6 or received after the close of business on November 20, 1984.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The State of Montana and defendants herein have not provided American citizens located abroad a reasonable opportunity to exercise their right to vote absentee in the November 6, 1984, federal election in violation of the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act.

2. The defendants shall take all steps necessary to ensure that all ballots cast pursuant to the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act which are signed and dated by voters on or before November 6, 1984, and received on or before the close of business on November 20, 1984, by the appropriate election officials, are counted as validly cast ballots, so long as the ballot would have been counted if it had been received by the close of the polls on election day.

3. The defendants shall notify the Director of the United States Department of Defense's Federal Voting Assistance Program (FVAP) as soon as this decree has been signed and request that the FVAP take such action as is necessary to notify overseas voters of the extension of time for receipt by Montana election officials of such ballots. The state shall assist the FVAP in whatever way necessary to publicize such extension of time.

5. The Court retains jurisdiction of this action for the purpose of enforcing the foregoing provisions.


ORDERED this day of 1984.

United States District Judge


The undersigned agrees to the entry of this Decree.

For the Plaintiff
United States of America:

For the Defendants
State of Montana and the
Secretary of State of the
State of Montana


Christopher G. Lehmann
Attorney, Voting Section
Civil Rights Division
Department of Justice
10th and Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 724-6304

Judy Browning
Judy Browning
Assistant Attorney General
for the State of Montana


Alan Robertson
Chief Counsel to Secretary
of State Jim Waltermire

Original - JAN 1984

1 - Begin Filing 13-10-201 (G)
until 50 days before Primary

FEB

Mar 15 - Appoint & instruct Registrar's
2 - Pet. Boundaries finished 100 days before Primary 13-3-102

MARCH

17 - Deadline filing Pres. Petitions w/ LPH 13-10-405
30 days before 50 days before Primary
20 - Begin Absentee Ballot period 75 days 13-13-211

APRIL

1st - Notification of Pres. Candidates suff. 13-10-406
9 - Petition to Sec. State 15 days before
10 - Close of Registration
10 - Filing deadline 13-10-201
10 - Last day filing petitions for nomination by minor & ind parties
10 - Deadline for filing pres. affidavits of bond & sec. state
10-24 Certificate on ballot Sec. State

H. B. 288 Amendment (JAN) 1984

1 - Begin Filing 13-10-201 (G)
until 75 days before Primary

FEB

1 - Mar 15 - Appoint & instruct Registrar's
21 - Deadline filing Pres. Petitions 13-10-405
30 days before 75 days
24th - 13-3-102 - Pet. Boundaries finished - 100 days before primary

MARCH

1st - 13-10-406 Notification of Pres. Candidates suff. 15 days before
15 - 13-10-503 Independent candidate
15th - 13-10-503
20th - 13-10-201 Filing deadline - 75 days before Primary 75 days
22nd - 13-10-208 Certification Ballot from Sec. State 75-67 day before P.
22nd - 13-10-601 Political Parties eligible for Primary - file petitions
with EA - forward Sec. State 75 days before primary
22nd - 13-13-211 - Begin absentee ballot period

APRIL

1st - Ballot to printer by EA 67-62 days
1 - No more withdrawal of 75 days - 13-10-325
10 - Close of Registration
22 - Ballots available for Absentee Ballot 45 days
13-13-205

May

6 - last day Registration - cert. to Sec State

22 - 13-13-205 Absentee ballots must be available

20 June 3 Publish Polling places

JUNE

4. Absentee Ballot close - Noon

Primary

29 - Deadline for const & init. Ret. to EN for cert. f.

July

line line for init & const Ret Sec State 13-27-104
and Friday 4th month prior to election voting on

Aug

11 - Deadline for filing petitions for nomination
in indy for candidates w/ED

w/Sec State

13 - 13-27-201 period 75 days

May

6 - last day Registration - cert to Sec State

20 June 3. Publish Polling places 13-3-105 (2)

JUNE

4 - Absentee Ballot close - Noon

5 - Primary

29 - Deadline for const & init Ret to EN for cert. f

July

13

Aug

8th 13-10-204 - 90 days before Gen - Indp or minor candidates file
with to Sec State for file

9th 13-27-201 (4) - last day (14 days before cert by Sec State)
to request absentee ballot

23rd - 75 + 67 days before gen - Ballot certification by Sec State
13-12-201

SEPT

13-27-201 (4) Last day to request absentee form
14 days prior to deadline ballot cert. f
17th 13-12-201 Last day Sec State cert. f Ballot
17th Close of Registration

OCT

7th - Last day for delivery of voter pamphlets to EA
12-27-410

23rd - Absentee ballots must be available

NOV

5th Close of absentee ballot
4th General Election

DEC

SEPT

2nd 13-10-2007 - No more absentee ballots, 75 days before general
election to provide by EPA 67-62
23rd 10-13-2008 - 45 days before general absentee ballot
available -

OCT

7th - Last day for delivery of voter pamphlets to EA
12-27-410

NOV

5th Close absentee ballot drop
4th General Election

DEC

Ex. # 2
1/31/85
HB-302

House Bill 302
House State Administration
January 31, 1985

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 302 repeals the Interstate Civil Defense and Disaster Compact, and enacts in its place an Interstate Mutual Aid Compact. The purpose of this compact is to provide for exchange between states of resources needed to respond to emergencies and disasters.

The law presently on our books was a model act adopted by most states in the 1950's. In 1974 Congress enacted Public Law 93-288 that changed the focus of the disaster program from nuclear war to natural disasters such as floods and earthquakes.

Because our present law emphasizes nuclear war, several sections are irrelevant and outdated. House Bill 302 replaced "interstate civil defense compacts" with "mutual aid compacts." It eliminates reference to organizations which no longer exist and titles such as "civil defense" that have undergone name changes over the years.

The bill designates the Dept. of Military Affairs as the agency to initiate action on behalf of the Governor to implement this compact and gives them rulemaking authority. I have a statement of intent for the bill.

The State of Washington has adopted this compact, and the State of Idaho is prepared to enter into negotiations with the States of Washington and Montana as soon as possible.

I have staff persons here from the Dept. of Military Affairs to testify in behalf of this bill and to respond to your questions.

DEPARTMENT OF STATE LANDS' PROPOSED AMENDMENTS

TO H.B. 302 (Introduced Bill)

1. Title, line 9
Following: "DISASTERS;"
Insert: "AUTHORIZING GOVERNOR TO ENTER COMPACT WITH ADJACENT STATE;"
2. Page 1, line 21
Following: "state"
Strike: "that does not border this state"
3. Page 1, line 22
Following: "with"
Strike: "the"
Insert: "that"

EX #3
1/31/85
HB-302

TESTIMONY ON HOUSE BILL 302

DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The Department of State Lands supports House Bill 302. The Department regularly utilizes services of adjoining states during high priority instances. This last summer we utilized resources from both Wyoming and Idaho.

The Department would however suggest one amendment. On page 1, section 2, begins with a statement "The Governor may enter into the compact with any state that does not border this state. . ." The Department has researched the reason that the compact is limited to states not bordering Montana and has been unable to find a reason. The Department would suggest that on line 21 the words "that does not border this state" be deleted.

✓

WITNESS STATEMENT

Name Chip Erdmann Committee On St Admin
Address Helena Date 1/31/85
Representing MT School Bd Assoc Support X - w/ Amendment
Bill No. 288 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Section 32 of this bill would require the County Election Administrator to prepare absentee ballots 45 days before an election.
2. Section 20-20-201 - provides that School Boards call school elections 40 days before the election. - Transmit the resolution to the co election administrator 35 days before the election.
3. Section 20-20-204 requires notice of the election to be made 20 days before the election.
4. We can't really extend the 40 day requirement in the school law - to do so would require a reorganization of school laws. We would be unable to run 3 levies if this time was extended.

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

HOUSE BILL NO. 288
PROPOSED AMENDMENTS

EX. #1
HB-288
1/31/85

1. Page 27, line 6.
Following: "not less than"
Strike: "65"
Insert: "67"

2. Page 27, line 11.
Following: "Not more than"
Strike: "65"
Insert: "67"

3. Page 27, line 11.
Following: "Not less than"
Strike: "60"
Insert: "62"

STATEMENT OF INTENT

H BILL NO. 302

It is the intent of this bill to allow the governor to enter into interstate mutual aid agreements with other states for the purposes of:

(1) providing state resources such as manpower, equipment, and material; and

(2) coordinating the provision of volunteer resources to assist other states in response and recovery activities relating to earthquakes, floods, or other disasters.

The governor shall enter these agreements and shall provide for their implementation, including the appointment of contact persons within this state and establishment of a contact procedure with participating states.

Although the governor is charged with implementation of this bill, he may delegate authority to the department of military affairs or other appropriate agency for day-to-day administration of the compact.

VISITORS' REGISTER

COMMITTEE

BILL NO. 288, 289, 297 & 302DATE 1/31/85

SPONSOR _____

| | NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|-----|---------------------|---|-------------|--------|
| 288 | Chap Erdmann | Helena - Mrs School Bd Assoc | w/Amad X | |
| 302 | JAN HENRY | HELENA MT RIES | X | |
| 289 | Wm Shoup | Boulder | X | |
| 288 | GN CHRISTENSEN | | X | |
| 302 | Robert Laumeyer | Boulder | X | |
| 288 | TODD HUCK | MT. HEN. OF MONTIES | | |
| 288 | Margaret S Davis | League of Women Voters | | |
| 288 | Mike Stoph | Clerk & Recorder | X | |
| | Bob Traft | W.D.L.3 Heavenside | X | |
| 288 | Johann Pires | Ft. Benton - Chouteau Co. Clerk | X | |
| 297 | Roy Bryner | MT. Dept of A | X | |
| | LARRY AKEI | SEC OF STATE | 289 X | |
| | KEITH KELLY | DEPT OF AGRICULTURE | 297 | |
| 289 | Ben & Donaldson | Boulder Mt | X | |
| 288 | Betty T Lund | Hamilton - Election Adm. Ravalli Co. | X | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE BILL NO. 288
PROPOSED AMENDMENTS

1. Page 27, line 6.
Following: "not less than"
Strike: "65"
Insert: "67"

2. Page 27, line 11.
Following: "Not more than"
Strike: "65"
Insert: "67"

3. Page 27, line 11.
Following: "Not less than"
Strike: "60"
Insert: "62"