

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 4, 1985

The seventeenth meeting of the State Administration Committee was called to order at 10 a.m. on February 4, 1985, by Chairman Jack Haffey in Room 331 of the Capitol Building.

ROLL CALL: All the members of the Committee were present.

CONSIDERATION OF SENATE BILL 164: Senator Neuman is the sponsor of this bill entitled, "AN ACT TO GENERALLY REVISE THE LAWS PRESCRIBING THE RESPECTIVE POWERS AND DUTIES OF THE DEPARTMENT OF ADMINISTRATION, STATE TREASURER, AND THE BOARD OF INVESTMENTS; ALLOWING THE BOARD TO HIRE ITS OWN PERSONNEL; REQUIRING THE BOARD TO KEEP CERTAIN RECORDS; AMENDING . . . , MCA; AND PROVIDING AN EFFECTIVE DATE." Senator Neuman said that this bill clarifies the relationship between the Board of Investment and the Department of Administration. The Board of Investment is attached to the department for administrative purposes only. First, the bill allows the Board to hire all personnel of the division. Currently, the Board hires only the Investment Officer and his assistant. The change will clarify the reporting requirements and chain of command in the Investment Division. Secondly, the bill changes the requirement that the Treasurer "keep an account of the total of each investment fund..." and it places that responsibility with the Board of Investment where that function is already being done. Mr. Neuman stated further that the Board invests assets in approximately 65 funds and is required to report on the status of those funds in its annual report. The state treasurer does not have the information to provide this detail accounting. However, summary financial information is reported on the statewide budgeting and accounting system. (For Senator Neuman's testimony see Exhibit "A-1.")

PROPOSERS: David Ashley, Department of Administration, supports this bill. Mr. Ashley said that Senator Neuman did a very good job of outlining this bill. We feel that the Board of Investment is better qualified to hire their own staff as they know what qualifications are needed. Secondly, Mr. Ashley, said the Board of Investments would give an accounting, but not a detailed account of their investments to the Department of Administration.

Jim Penner, Board of Investments, supports this bill.

OPPOSERS: There were no opposers.

COMMITTEE QUESTIONS: Senator Harding said, do I understand that this Board will keep the investment records rather than the State Treasurer?

Mr. Ashley replied that at the present the Board of Investments keep detailed records. That information is rolled up and put on the budget and accounting system. In other words, they show that you have \$1,000 worth of stock, but not what kind of stock it is. Senator Mohar asked what Section 2-15-121 (2) (d) does. Mr. Ashley said that it simply states that the Department of Administration has the power to hire the staffs, except for our Investment Officer and his assistant. This would take that power away.

SENATE BILL 164 is closed.

EXECUTIVE ACTION ON SENATE BILL 164: Senator Conover made a motion that SENATE BILL 164 do pass. Senator Manning called question, and the Committee voted unanimously that SENATE BILL 164 DO PASS.

CONSIDERATION OF SENATE BILL 162: Senator Daniels, Senate District 24, is the sponsor of this bill entitled, "AN ACT TO EXTEND THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." Senator Daniels said this is a bill which purports to cure all defects and errors of bonds issued by municipalities and divisions of the State of Montana. With this bill, the bonding companies feel better and the state feels better. This bill takes care of any omissions or irregularities.

PROPOSERS: David Ashley said that the Department of Administration supports this bill.

OPPOSERS: There were no opponents.

COMMITTEE QUESTIONS: Senator Harding asked if he was sure it was a cure-all. Senator Daniels replied that the proponents ask him to do this every two years, it seems to make everyone feel better.

SENATE BILL 162 is closed.

EXECUTIVE ACTION ON SENATE BILL 162: Senator Lynch made a motion that SENATE BILL 162 do pass. Question was called, and the Committee voted unanimously that SENATE BILL 162 DO PASS.

CONSIDERATION OF SENATE BILL 169: Senator Ethel Harding, Senate District 25 Lake County, is the sponsor of this bill entitled, "AN ACT TO ALLOW ELECTION ADMINISTRATORS THE OPTION OF CONDUCTING CERTAIN SPECIFIC ELECTIONS BY MAIL BALLOT; AMENDING SECTIONS ... AND ..., MCA; AND PROVIDING AN EFFECTIVE DATE." Senator Harding said that this is a good bill. She said there was a lot of new sections, so the Committee had a lot to consider. Senator

Harding said that this bill had a Statement of Intent because section 6 grants the secretary of state authority to adopt rules for the conduct of mail ballot elections. It is intended that the authority to adopt rules extends only to the areas specifically provided for in section 6. Rules are to be adopted under the Montana Administrative Procedure Act. The rules must be consistent with the provisions of the act. Senator Harding further stated that it is intended that use of the mail ballot option will be entirely optional and within the discretion of the applicable jurisdiction and election administrator. Senator Harding said that many elections are held in very small areas where there is maybe only one person running or it is only a one issue election. Turn-out is predictably poor, and in these areas the mail ballot is the answer for getting more people to turn-out and for keeping the costs of these elections within reason. She said that this bill would not allow mail ballot elections for the big elections, any election conducted by a school district, or a recall election of a public office holder, except in third class cities, and she continued to list other things that were not allowed. She said ballots would be mailed out with secrecy envelopes and you would have to sign the outside of the envelope to validate your ballot, and this way they could prevent fraud. Senator Harding further said that unlike most elections where it is one-man, one-vote, in irrigation district elections, it is according to how many acres you own. Senator Harding reiterated that this was a good bill to take care of these special elections that do not have a good voter turn-out.

PROPOSERS: Jean Johnson of Jim Waltermire, Secretary of State's Office, says that they support this bill. She gave the statistics on the other states that have mail ballot elections and how well they are working. She showed the Committee one of the mail ballots and how it works. Ms. Johnson further stated that this method saves on the cost of elections for those small elections and improves voter turn-out.

Alan Robertson, Legal Counsel for the Secretary of State's Office, took the Committee through a section by section explanation of what the bill says. His testimony is marked Exhibit "D", attached hereto and by this reference made a part hereof. He told the committee that he has had some people try to cancel an election because no-one was interested, but he said cancelling an election is foreign to the system. It is a hard thing to do. He thinks this bill will solve that problem.

Betty Lund, Election Administrator for Ravalli County, supports this bill. She feels the purpose of this bill is to solve problems in some areas of the election process. She feels that the mail ballot is the answer to a lot of these problems.

She gave statistics from Oregon showing that these ballots were readily accepted and cost less than regular elections. Ms. Lund said the cost per election was decreased by two-thirds. She said the increased voter participation was three times greater, and the voter acceptance was shown by participation. (For more of Ms. Lund's testimony see Exhibit "G" attached hereto, and by this reference made a part hereof.)

Alec Hansen, Montana League of Cities and Towns, supports this bill. He feels that this would solve two of the major problems of elections, cost and voter turn-out.

Ken Kelly, Montana Water Development Association, Montana Irrigators, Inc, supports this bill. This is a large step in the desirable amendment of election laws. It should promote more participation in the elections of Irrigation Districts and other political subdivisions. He further said that they have a problem getting people to show up for the annual meeting let alone to vote. He said that they welcome this opportunity and ask that this bill pass. (See Exhibit "C" attached hereto.)

Harriet Meloy, League of Women Voters, would support this bill with significant amendments that would limit its scope and clarify its implementation. She then read a section by section change that would be acceptable to the League of Women voters. She said these changes were drawn up by Margaret Davis and written by Diane Young. (Attached hereto marked Exhibit "E" and by this reference made a part hereof.)

Following Harriet Meloy's testimony, Jean Johnson of the Secretary of State's Office entered a rebuttal sheet to the League of Women Voter's changes, attached hereto marked Exhibit "F" and by this reference made a part hereof.

Ray Wadsworth, Montana Rural Water Systems, supports this bill for all the reasons stated above. He said it was very expensive to hold these elections when there were no other elections being held, and the turn-out was very poor. Mr. Wadsworth said that in 1983 they began drafting legislation to solve these problems. He said there was a hearing on House Bill 232 and they postponed it until they see what happens to Senate Bill 169. He said that they did not find out about this bill until just recently, but most of their participants have called in to say that they unanimously support this bill.

JoAnne Perez, Montana Association of Clerk & Recorders, supports this bill, for all the reasons listed above. She said it was very expensive to have her judges go down and sit for 8 hours or so and be bored because no-one comes. She thinks this bill will solve this problem.

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Gordon Morris, Montana Association of Counties, supports this bill. Mr. Morris said that they have a bill pending before the house waiting to see what the outcome on this bill will be, which would allow water districts to proceed like corporations. He said that these elections are not tied to the one-man, one vote principle. He said these elections are tied into the acreage that they have, yet these elections cost just as much as a regular election.

Jean Johnson entered testimony submitted by Laura Mitchell, Secretary for different Drainage Districts. In her testimony, Ms. Mitchell said that her drain districts are the type of public entity which can be best served by a mail ballot election. (For more of her testimony, see Exhibit "H", attached hereto and by this reference made a part hereof.)

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: Senator Haffey announced that we will hold action on this until Friday so the members of the Committee can look it over. Senator Haffey asked Senator Harding to work with Harriet Meloy of the League of Women Voters to see if they can iron out any problems they have. Senator Lynch said that he had a problem with why there wasn't a 22¢ stamp on these ballots. He asked if it wouldn't work to put a first class frank on all these envelopes, and then you would get more participation. Mr. Robertson, Attorney for Secretary of State's Office, said that they felt that you normally had to get in your car and get to the voting place in order to vote, and they thought people would not mind putting forth a little effort this way to vote. Senator Tveit asked Ms. Lund if on page 7, lines 5 and 7, what Harriet Meloy had said was true that people conducting election should have some say. Ms. Lund replied that under Title 13, we have the right to conduct them and have them with the school elections. In our county we try to do this because I am very careful about my elections. Senator Tveit asked if the school judges couldn't handle this since they were already there. Ms. Lund replied that they had to hire separate judges. The school election judges were not allowed to handle their ballots. Senator Mohar mentioned that on the sample ballot passed around there was quite a fine and imprisonment for fraud. Does Montana have this on its laws? Mr. Robertson replied no.

SENATE BILL 169 is closed.

The meeting was adjourned at 11:25 a.m.



SENATOR JACK HAFFEY, CHAIRMAN

DATE Feb 4, 1985

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dave Ashby	Dept of Administration	1624/164	✓	
K.M. Kelly	Mont. Water Develop. Assn Mont. Irrigators, Inc.	169	✓	
Joanna M. Prew	Mt. Man. Clerk & Recorder	169	✓	
Betty T. Fund	Elec. adm. Powell Co	169	✓	
G. Morris	M.A.C.O.	169	✓	
O. B. Penner	Board of Investments	169	✓	
D.A. Kain	" " "	169	✓	
ALAN ROBERTSON	SEC OF STATES OFF	169	✓	
Harriet Maloy	League of Communities	169		
Sue Brattott	Lewis & Clark Co. Clerk & Recorder	169	✓	
Alec Hansen	LEAGUE OF CITIES	169	✓	
Paul G. Johnson	Sec. of State	169	✓	

(Please leave prepared statement with Secretary)

(This sheet to be used by those testifying on a bill.)

Subhibit A
SB-169
2-4-85

NAME: Ray Wadsworth DATE: 2/4/85

ADDRESS: 1010-22 Ave So Cot Falls

PHONE: 454-1151

REPRESENTING WHOM? MT Rural Water Systems

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit "A-1"

SB-164

2-4-84

TESTIMONY

SB 164

This bill clarifies the relationship between the Board of Investment and the Department of Administration. The Board of Investment is attached to the department for administrative purposes only.

First, the bill allows the Board to hire all personnel of the division. Currently, the Board hires only the Investment Officer and his assistant. The change will clarify the reporting requirements and chain of command in the Investment Division.

Secondly, the bill changes the requirement that the Treasurer "keep an account of the total of each investment fund ..." and it places that responsibility with the Board of Investment where that function is already being done.

The Board invests assets in approximately 65 funds and is required to report on the status of those funds in its annual report. The state treasurer does not have the information to provide this detail accounting. However, summary financial information is reported on the Statewide Budgeting and Accounting System.

Senator Neuman,

I will be testifying in support of SB 164.
I hope this information is helpful. If you have questions, please contact me at # 2032.

The bill is scheduled before Senate State Administration on Feb. 4th at 10AM.

Thank you,

Warr Ashley

Deputy Director

Department of Administration

BACKGROUND

The Board of Investments holds a unique position in state government in respect to the hiring and supervision of its employees. Currently, there are twelve boards, commissions or programs which are administratively attached to executive branch departments but have provisions, in varying degrees, to hire and supervise their own staff. The Board of Investments, however, hire employees under the following conditions:

- 1) Personnel for the board are appointed by the department, subject to the approval of the Board except that;
- 2) the Board may employ an investment officer and assistant officer and prescribe the duties and annual salary of both.

By statute (2-15-1005, MCA), the investment officer and assistant investment officer have "general responsibility for management of the board's staff and directing investment."

This situation originated in 1979 when the legislature granted an exception to the Board to permit them to hire and prescribe the duties of the investment and assistant investment officer, while at the same time giving the investment officers responsibility for the staff they do not, by statute, hire. These two positions were also removed from the state classification pay schedule at that time. Attach-

THE PROBLEM NOW

The problem is, perhaps, obvious. While the director of the Department of Administration is responsible for providing staff for the Board by the statute establishing the Board of Investments and by the statute defining "allocation for administrative purposes only (2-15-121(2)(d), MCA), he does not at the same time have corresponding supervisory authority over the staff. The result is a confusing line of authority and responsibility between the staff, Board and department.

There are currently 11 professional and 6 clerical positions in addition to the 2 exempt positions at the Board of Investments.

As mentioned, this personnel arrangement is unique in state government. Other boards and councils may hire their own staff but do so without a corresponding attachment to the department and, therefore, dual reporting requirements.

Bill Title: AN ACT TO GENERALLY REVISE THE LAWS PRESCRIBING THE RESPECTIVE POWERS AND DUTIES OF THE DEPARTMENT OF ADMINISTRATION, STATE TREASURER, AND THE BOARD OF INVESTMENTS: AMENDING SECTIONS 2-15-1005 and 17-6-201, MCA.

Purpose: The purpose of this bill is to clarify the lines of authority for the board of investments, the department of administration, and the treasurer's office by:

1. Allowing the board to hire all its own staff rather than only the investment officer and assistant investment officer. Currently, the department of administration is responsible for hiring all staff except investment officers, subject to the approval of the board;
2. Placing the responsibility for keeping an account of the total of each investment fund and all the investments belonging to such fund and of the participation in each treasury fund account with the board of investments. Currently, this is being done by the board of investments and they have the accounting system set up to perform the function although the function is delegated to the treasurer's office by law.

Pros: This amendment further clarifies and delineates the functions of the board of investments, the treasurer's office and the department of administration.

This amendment clarifies the ambiguity in the laws by placing the responsibility and accountability with one agency which eliminates the dual responsibility currently in the law which only gives the appearance of better control. We believe that stronger control is achieved when one agency is held accountable and responsible.

Alternative to Legislation: Leave as is.

Financial Impact: None

Prior Legislative History: Only concerning item #1 above. The board was originally established in 1971 with language requiring that DOA hire all personnel subject to the approval of the board. This section was amended in 1979 to permit the board to employ an investment officer and an assistant investment officer, prescribing the duties and salary of both and removing these two positions from the state classification system.

New FTE's Required: None

Examples of Harm: The continued confusion as to which agency is responsible and accountable for the above items.

Interested Persons: Members and staff of the Board of Investments, the Department of Administration.

(This sheet to be used by those testifying on a bill.)

Exhibit B
SB-164, 162
2-4-85

NAME: Dave Ashley DATE: Feb 4, 85

ADDRESS: 625 2nd St. Helena

PHONE: 444-2032

REPRESENTING WHOM? Dept of Admin.

APPEARING ON WHICH PROPOSAL: SB 164, SB 162

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Chairman Haffey, members of the committee, for the record my name is Jean Johnson. I work for Secretary of State Jim Waltermire in the elections area.

At issue this morning is whether or not election administrators and certain political jurisdictions have the option to conduct their elections by mail ballot.

I want to give you a brief history of the mail ballot election and what it does.

Monterey, CA actually pioneered this method when it became necessary to conduct an election for the creation of the Monterey Peninsula Water Management District. It was obvious that such an election standing alone would be very costly and the need to cut those costs led to the creation of the mail ballot method.

In 1981 Oregon became the second state to pass legislation authorizing the mail ballot option. Washington and Kansas followed in 1983. (In 1982 Rochester, New York conducted a single-issue election by mail ballot through a "loophole" in state election laws which excluded the coverage of "special elections limited to local referendum issues.")

Actually, Washington⁰² has used mail ballots for all voters in every election in precincts of one hundred or less registered electors for around 40 years. Officials there report substantial cost savings and a 70% to 80% turnout in those precincts. Overall, hundreds of thousands of ballots have been cast by mail ballot procedure in the seven years since the Monterey Peninsula Water Management District election. Very few problems have been reported.

Secretary Waltermire began looking at the mail ballot election procedure over two years ago in response to a number of problems special districts often have conducting elections. There are others here who will address those issues. I'd like to show you how the election actually looked to the voters in Vancouver, WA last May.

NAME: K.M. Kelly DATE: 2/4/85

ADDRESS: Helena 4605 Glass Drive

PHONE: 458-5861

REPRESENTING WHOM? Montana Water Development Assn.
Montana Irrigators, Inc.

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

*This is large step in the desirable amendment of
Election Laws. It should promote more participation
in the elections of Irrigation Districts and other
political sub-divisions.*

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BILL NO. 169

Exhibit "A"
SB-169
2-4-85

Section by Section Review

Sec. 1 Statement of Purpose: Outlines policies behind act. Clearly states that intent is to provide option.

Sec. 2 Definitions: Self explanatory.

Sec. 3 MBE Procedure: Outlines major steps of MBE. Defines MBE in terms of procedures used.

Sec. 4 MBE not mandatory - authorized -- prohibited:

(1) Act is an option -- not mandatory

(2) Specific cases when may be used.

(a) Districts with annual elections.

- drainage districts;
- irrigation districts;
- fire districts;
- county water and sewer districts.

(b) In 3rd Class cities (1,000 to 5,000) ballot issues and non-partisan candidate elections.

(c) Towns (under 1,000) any election conducted by the town.

(d) County water and sewer districts in unincorporated areas.

(e) "special" elections on ballot issues only in any local government unit (city, county or special district).

(3) Prohibited elections:

(a) any regularly scheduled primary or general held in an even-numbered year.

(b) any regularly scheduled primary or general held in an odd-numbered year except (1) non-partisan elections in 3rd Class cities or (2) elections in towns.

(c) any school district election of any kind or purpose.

(d) any recall election

- (e) any election involving candidates except
 - candidates for trustee of a special district (fire, irrigation, drainage, or water and sewer);
 - non-partisan candidates in 3rd Class cities;
 - all candidates in towns.
- (f) special elections being held in conjunction with any regularly scheduled primary or general.

Sec. 5 General election laws apply: Balance of Title 13 covers things not specifically dealt with in this act.

Sec. 6 Role of Secretary of State: Specifies role of his office.

Sec. 7 How MBE Initiated: Either the Election Administrator or the governing body.

Sec. 8 Initiation by Gov Body: Pass resolution asking election administrators to conduct election by mail ballot. Election administrators can say no.

Sec. 9 Initiation by Election Administrator: If election administrator wants to do a MBE she writes a plan and sends it to the Gov. Body.

Sec. 10 Objection by political subdivisions: Governing Body can say no by passing resolution.

POINT: Process can be started by either the election administrator or the Gov. Body, and either can say no. Consent of both is required.

Sec. 11 Written Plan to Secretary of State: This is needed, at least initially, to insure that uniformity is maintained and procedures are correctly followed. The "written plan" idea has been used successfully in other states as a means of implementing this new idea.

Sec. 12 Proportional Voting: Some jurisdictions allow weighted voting (e.g. irrigation districts -- 85-7-1710 -- allow one vote for every reg. elector owning less than 40 acres and, for those owning more than 40 acres, one vote for every 40 acres owned). This section allows weighting mail ballots in those instances.

Sec. 13 Distributing materials to electors: Covers what is sent out and how.

Sec. 14 When material mailed: All mailed same day -- between the 15th and 25th days before.

Sec. 15 Voting when elector is absent: Since virtually everyone will be voting as they would if they had requested an absentee ballot, we don't need to provide for much in the way of actual absentee balloting. Only those who will be away for the whole time the election is being conducted (15 to 25 days) need to be provided for. And under this section, they simply provide the address where they would like their ballot mailed.

Sec. 16 Voting mail ballots: Specifies how a vote is actually cast in a MBE.

Sec. 17 Replacement ballots -- procedure: If a ballot is lost, doesn't get delivered or gets ruined, this provides the mechanism for still getting to vote.

POINT: Many may not realize, but even in conventional elections, if you ruin your ballot you can get a replacement.

Sec. 18 Returning marked ballots: May return it on or before election day, either in person or by mail.

POINT: This bill retains the practice of going to the polls on election day and casting your ballot. If a person wants to still do it that way, its possible.

Sec. 19 Places of Deposit: These are to be like polling places and, on election day itself, they will be open the same hours. If a person likes going to the polls, or doesn't want to pay the postage, or doesn't want to take a chance on his ballot getting lost, or even if its simply more convenient to hand deliver -- that is provided for. And, he can do it either on or before election day.

Sec. 20 Disposition of Ballots returned in person: This covers how hand delivered ballots are handled.

NOTE: This section does not say that a woman, for example, cannot hand deliver her own ballot, her husband's, and her child's. It simply says that if a voter delivers their own ballot, in person, then officials must do certain things (like verify the signature) while that person is there in the office.

This prevents an elector having to make a second trip in because something came up that could have been handled while she was there the first time. This is also the only reason for the log which electors sign --

just so questions about the signature can be resolved while the person is actually there and so they won't have to make another trip. The husband's ballot would simply be handled as if it were received in the mail.

Sec. 21 Disposition of ballots returned by mail: This covers how to handle ballots that are returned by mail.

Sec. 22 Signature Verification: This is the main way to guard against fraud. It's the same procedure that has been used for absentee ballots for years -- except that it has more protection for the voter (e.g. if there's a problem you can call the voter and have them come in). Right now, under the absentee ballot provision if there's a problem with the signature, etc. the voters ballot is just rejected.

These additional protections for the voter are necessary because everyone's signature will need to be verified not just the relatively few who now vote by absentee. The protections shouldn't be overly burdensome on officials since processing the ballots will be spread out over two weeks not concentrated on one day.

Sec. 23 Voting by nonregistered electors: Some jurisdictions (e.g. irrigation districts) allow people to vote even if they aren't registered. This section provides for that for MBE.

Participation in an election is a right. But registration has long been held to be a reasonable requirement and not an infringement on that right. Likewise, it is reasonable to require a little extra from a non-registered elector who wishes to participate in an MBE. Officials have to have some means for knowing where to mail the ballot and for verifying the signature to prevent fraud. If the jurisdiction feels this section is overly burdensome, then they do not have to choose the mail ballot option.

Any such person would have up to five weeks to comply with this section. Surely that would not be too great an inconvenience.

Sec. 24 Valid Ballots: This section makes it very clear what must be done in order to have your ballot count.

Sec. 25 Notices to electors -opportunity to resolve: Every year in almost every county there are absentee ballots which aren't counted because the voter forgot to sign the affidavit or his signature couldn't be verified.

This section provides optimum opportunity to the elector to have his ballot count.

Minor or procedural mistakes would be things like: not signing the affidavit; not enclosing the ballot secrecy envelope in the return/verification envelope (hand delivered); two ballot secrecy envelopes in one return envelope; signing a married name when the registration card has the maiden name; or writing your name on the secrecy envelope.

Sec. 26 Resolving issues in question: This covers how to resolve any question that comes up as to the validity of a ballot. Provides further safeguards against fraud.

Sec. 27 Procedure at close of voting: This covers how to proceed when voting is over.

Sec. 28 Amending 7-13-2236: This was necessary to allow water and sewer district elections in unincorporated areas to be done by mail ballot.

Sec. 29 Amending 13-1-401: This further allows special districts to use the MBE option.

NOTE: Districts may still hold their elections at other times (with schools or at their annual meeting) if they wish.

Sec. 30 Effective Date: This is so the procedure can be in place before fall in case some areas want to use it -- like perhaps the county water and sewer district in the Lincoln area of Lewis and Clark County.

Amend "E"
SB-169
2-4-85



League of Women Voters of Montana
816 Flowerree
Helena, Montana 59601

4 February 85

SB 169 - An act to allow election administrators the option of conducting certain specific elections by mail ballot

The League of Women Voters would support this bill with significant amendments that would limit its scope and clarify its implementation.

Voting by mail has several potential useful applications in Montana. Jurisdictions in California, Oregon, and New York, among others, have conducted successful mail elections.

In Montana area residents or landowners have sought the advantages of being a government entity rather than becoming a private association, cooperative, or dependent on individual initiative and/or investment. The advantages of being a political sub-division include some special legal considerations, benefits for volunteers, access to low interest loans or public funds, and most importantly the power to tax friends and neighbors in that district.

Service districts in Montana range widely in size of area and budget. They are not necessarily rural in their constituencies. Devising laws applicable to all such districts is not easy, but the fundamental need to adhere to democratic principles should not be ignored in the name of efficiency. "Taxation without representation" can still stir citizen concern today. A fair, accessible election may be the price that must be paid for the perpetuation of these districts. (That qualified or interested candidates are unwilling or unavailable to fill district offices is not a valid argument for denying taxpayers an opportunity to participate in district affairs.)

We believe that mail balloting be instituted on a more modest level than proposed in SB 169. The League recommends that Sec. 4 (b) and (c) on page 4 be struck. Because of the new campaign techniques required for running for a mail election, city and town office candidates should not be among those piloting this system.

Any system of voting by mail must provide the voter with a postage paid return envelope.

The Sections (15, 17, 22, and 25) dealing with absentee balloting, replacement ballots, signature verification, and notice to elector(s) are inconsistent and seem overly complicated. The opportunity to cast an absentee ballot is very restricted, while replacement ballots would be quite easy to obtain until the close of the polls.

Section 19 regarding places of deposit for completed ballots does not meet standard criteria for a secure, centralized depository. Sections 19 and 20 taken together would undercut the strong points of having an election by mail!

SB 169 Mail elections

Sections 7, 8, and 9 address how an election by mail is initiated. Since the political sub-division pays the cost of the election, the decision should rest with the governing body of the sub-division, if the election administrator agrees that such an election would be feasible. Giving broad discretion solely to the election administrator (page 7, lines 5 - 7) is not recommended by the League.

Finally, we would ask that all the language in Section 1 following "therefor." on line 14, page 1 be stricken. These sentences are the expression of opinions that do not accurately reflect how Montanans view their democratic system of government. This state puts a high premium on direct participation in government through elections. The public would cast a dubious eye on balancing fair and accurate elections against cost-effectiveness. The best and only truly proper reasons for supporting mail elections is that they offer the voter more convenience than presently exists, and that they often result in higher voter participation for certain types of elections.

Mail balloting can be a valuable alternative method of holding certain elections. The League asks the committee to give serious consideration to the suggestions we have made in this testimony.

This testimony was prepared by Margaret Davis. It was made available 24 January 85 to the bill's sponsor Senator Harding and to the Secretary of State's staff member Jean Johnson.

Presented by:

Written by Margaret S. Davis for Diane Young, president LWVMT

Margaret S. Davis

Exhibit "F"
SB-169
2-4-84

RESPONSE TO TESTIMONY
OF THE LEAGUE OF WOMEN VOTERS
ON SENATE BILL 169

ITEM 1: CANDIDATE ELECTIONS

SB 169 PROVIDES: The only candidate elections which are even available for the mail ballot option are:

(a) trustees of special districts but not school districts;

(b) all candidates for municipal office in towns -- incorporated areas under 1,000 in population; and

(c) candidates for municipal office in 3rd Class cities (1,000 to 5,000) if the city elects officers on a non-partisan basis.

All other candidate elections of any type are specifically excluded.

LEAGUE RECOMMENDS: "... that mail balloting be instituted on a more modest level ..." "... that Sec. 4(b) and (c) on page 4 be struck. Because of the new campaign techniques required for running for a mail election, city and town office candidates should not be among those piloting this system."

RESPONSE: This is a policy choice for the legislature to make. Whether candidate elections should be among those allowed to use the mail ballot option -- and if they are, at what level -- is simply a judgment call.

SB 169 is a response to a two year study of recurring problems in the elections area. The cost and frequency of elections are very real problems for small towns. A quick conversation with officials in places like Judith Gap and Moore will verify that fact.

As any rural Montanan knows, politics in communities with only a few hundred people are quite different from politics in the communities where the League has its chapters.

The problems with elections in towns are real and ongoing. The mail ballot option is one possible solution. Disincorporation is another. Forcing them to live with the problem is the third. These are the choices available to the legislature.

The proponents have studied the matter and feel that the mail ballot option is appropriate for candidate elections in towns. We also feel, although less strongly, that the mail ballot option is appropriate for Montana's small cities. But if the legislature wants to exclude 3rd Class cities altogether, or even if it would prefer to expand the proposal to include even partisan elections in 3rd Class cities, the proponents would not object.

ITEM 2: POSTAGE

SB 169 PROVIDES: The cost of postage is divided. The government bears the cost of sending materials to the voter. The individual voter bears the cost of mailing the ballot back.

LEAGUE RECOMMENDS: "Any system of voting by mail must provide the voter with a postage paid return envelope."

RESPONSE: Just why is return postage a "must"? Under the current system, if an elector wishes to vote, he must get himself to the polls on election day at his own expense. The same would be possible under SB 169.

Anyone who wishes can still vote in the traditional way. The only difference is that they will have already received their ballot in the mail. The voter can avoid paying postage by simply hand delivering the ballot. That is no greater burden than driving to the polls on election day.

The opportunity to mail the ballot back is simply provided as a convenience to the voter. And a very inexpensive convenience at that.

The proponents believe that the vast majority of voters would feel that 22 cents is a small price to pay for that convenience. Those who disagree have the alternative of hand delivering their ballot. In giving the voters the vastly expanded convenience of voting by mail, 22 cents is a very small request to make in return.

ITEM 3: INCONSISTENT AND COMPLICATED SECTIONS

LEAGUE STATES: "The sections (15, 17, 22 and 25) dealing with absentee balloting, replacement ballots, signature verification, and notice to elector(s) are inconsistent and seem overly complicated."

RESPONSE: This comment is not sufficiently specific to allow a response. Its author has been out of town and unavailable for clarification. We have reviewed the sections and do not find how they are inconsistent.

ITEM 4: ABSENTEE VOTING

SB 169 PROVIDES: Anyone who will be away for the entire period that the election is being conducted, can, up until noon the day before the ballots are mailed, provide officials with the address he would like his ballot mailed to.

LEAGUE STATES: "The opportunity to cast an absentee ballot is very restricted, while replacement ballots would be quite easy to obtain."

RESPONSE: What absentee situation does the league see which is not covered satisfactorily? The situation in a mail ballot election is quite different.

Traditionally you need to provide for everyone who will be absent on election day. With mail ballots, however, you only need to provide for those who will be absent for the entire two to three week period that the election is being conducted. And they simply need to provide the alternative address where they would like their ballot sent.

Anyone who leaves town after ballots have been received can simply take their ballot with them and mail it from wherever they are. Anyone who returns home after ballots have been mailed will find their ballot waiting for them when they get home. Only those who are away the whole time need be provided for.

A mail ballot election is almost like everyone voting absentee. The proponents do not see how this is "very restricted."

ITEM 5: SECURITY OF PLACES OF DEPOSIT

SB 169 PROVIDES: Places of deposit are designated by the election administrator. These are where people may hand deliver their ballots. They must be available throughout the voting period with more possible on election day itself. A transport box, secured as provided by law, is available at each and is where the on-location officials are to deposit the ballots.

LEAGUE STATES: "Section 19 regarding places of deposit for completed ballots does not meet standard criteria for a secure centralized depository."

RESPONSE: The proponents are unclear what is meant by "secure, centralized depository" and are unaware of any "standard criteria."

Our system is set up with a series of precincts where people go to cast their ballots. Places of deposit are like precinct polling places.

The only differences are: 1) not as many places of deposit are needed because so many of the voters will return their ballots by mail; 2) thus, there probably won't be one in each precinct; 3) people will most likely bring their ballots in already voted although its possible to vote it right there; 4) people will most likely bring in a ballot, although if its been lost, etc., they can obtain a replacement; 5) for these reasons they're called "places of deposit" instead of "precinct polling places."

Many other functions are very similar. Under the current system, precinct polling places essentially are places where officials receive ballots from electors and handle them as provided by law. When that is complete, officials place the ballots in transport boxes, seal those boxes, and transport them to a central location. These aspects are retained for places of deposit in the mail ballot system.

ITEM 6: AVAILABILITY OF PLACES OF DEPOSIT

SB 169 PROVIDES: There will be places where people can return their ballots in person. And if they do, officials will do some of the processing while the elector is right there so that if any questions come up they can be resolved with the elector right then.

LEAGUE STATES: "Sections 19 and 20 taken together would undercut the strong points of having an election by mail!"

RESPONSE: We are not sure what the point is. It seems however that the League is suggesting that just having places where ballots can be returned in person undercuts the advantages of mail elections. We don't agree.

Please note that no one is required to deliver their ballot in person, but it is allowed. People are not prohibited from having someone else deliver their ballot for them. Section 18 is permissive, and sections 16 and 24 only require return (by any means) prior to the close of voting on election day. Section 20 only requires that if a ballot is returned in person, certain things must be done while the voter is right there.

It is not required that ballots be retained at the place of deposit until the close of voting. Transport boxes could be picked up and exchanged at anytime (as is currently allowed for polling places under 13-15-103). This would allow for the ongoing processing of ballots which is one of the "strong points" of mail elections. As long as all statutory procedures are followed (seals, records of seal numbers, certificates of transporters, etc.) there shouldn't be any problem.

ITEM 7: INITIATION OF MAIL BALLOT OPTION

SB 169 PROVIDES: Either the governing body or the election administrator can start the process, and either can stop it. The consent of both is required or the mail ballot option cannot be used.

LEAGUE STATES: "Since the political sub-division pays the cost of the election, the decision should rest with the governing body of the sub-division, if the election administrator agrees that such an election would be feasible. Giving broad discretion solely to the election administrator (page 7, lines 5-7) is not recommended by the League."

RESPONSE: A quick review of sections 7, 8, 9 and 10 should reveal that either can start it and either can stop it. Section 10 provides that if the governing body says no, then it can't be done by mail ballot. The language challenged by the League simply gives the same option to the election administrator. We do not agree that that is an overly broad grant of discretion.

Mail ballot elections are entirely new to Montana. The proponents feel strongly that, at least in the beginning, extra measures must be taken to guard against mistakes. We would not be comfortable having an irrigation district, for example, take on this new procedure on their own.

That is why the election administrator is injected in the process. That is also the reason for the written plan and its review by the Secretary of State. The jurisdiction is given a "final say" because it's their election. The election administrator is given a "final say" because it's a new process and she's the one with the knowledge and experience to ensure that is implemented properly.

Over time, once the jurisdictions are familiar with the process, it may be possible to reduce the election administrator's discretion in this area and transfer more to the governing body by itself. But we need to have some experience with this system first.

ITEM 8: STATEMENT OF PURPOSE

SB 169 PROVIDES: A statement of purpose containing various policy considerations.

LEAGUE RECOMMENDS: "Finally, we would ask that all the language in Section 1 following "therefor." on line 14, page 1, be stricken. These sentences are the expression of opinions that do not accurately reflect how Montanans view their democratic system of government."

RESPONSE: Statements of purpose are only useful as statutory expressions of legislative intent. They often aid in ensuring that any subsequent judicial interpretation of the legislation will be consistent with the reasons for the legislative action.

They are expressions of opinion. But once enacted, they are the expression of legislative opinion. The proponents disagree with the League's assessment that any consideration of cost-effectiveness is irrelevant when it comes to elections.

We disagree that "the best and only truly proper reasons for supporting" the mail ballot option are that "they offer the voter more convenience" and "often result in higher voter participation." We believe that if these things occur because of a method which is also cost-effective, then that is an equally valid and proper reason for supporting the mail ballot concept.

SB-169
2-4-84

NAME: Betty T. Lund Election Administrator DATE: 2/4/85

ADDRESS: Ravalli County Courthouse Hamilton Mt.

PHONE: 363-

REPRESENTING WHOM? Election Administration Advisory Council

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT: Election Administration Advisory Council formed by Sec of State to solve problem areas in election. See mail ballot a potential solution to our special district elections.

Example - Linn County Oregon -

11/3/81 - 66-78% turnout cost per reg. voter 46¢
" " voting person 77¢

8/10/82 - 92.5% voter turnout vs statewide 26.3%
cost of mail ballot 59¢ cost of polling place ballot 2.11 1.52 saving

increased voter participation - 3 times greater

voter acceptance - shown by participation

enhanced integrity of the election

Does not increase cost of election -- 1/3 less

Hamilton Municipal Election - 10.5% turnout -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY IN SUPPORT OF SENATE BILL 169

(Mail Ballot Elections)

SB-169
2-4-84

The Arnold, Birely, Danford and Shiloh Drains of Yellowstone County wish to present their written testimony to the Senate State Administration Committee in support of SB 169.

The drain districts are the type of public entity which can be best served by a mail ballot election.

These four drain districts, like many others, were organized in the 1920's and 1930's when a small number of landowners/farmers in the area of each district petitioned the District Court for an order establishing a drainage district as a corporate body.

Since establishment of the districts the commissioners have, upon the approval of the District Court, periodically certified an assessment to the agent for the Department of Revenue for the County. The assessments are levied and collected with real property taxes. The primary purpose for levies has been to repair and maintain the drainage ditches.

While 50 years ago these districts consisted of farmland, the property within the districts has become substantially subdivided into multi-family and single family residences. For example, the Shiloh Drain District in 1938 consisted of 15 parcels of land owned by 15 individuals. In 1982, the last year in which an assessment was made for Shiloh Drain, there were approximately 585 separate parcels of property within the district whose owners are subject to assessment. The Arnold Drain includes substantially more property owners than the Shiloh Drain. The other two drains are somewhat smaller.

The Shiloh Drain assessment in 1982 raised approximately \$3,359.00. The assessments are based on the historic assessed value for a particular parcel of land which depends upon the benefit received by the parcel at the time of construction of the drain ditch. The owners of farmland within the district pay according to that historic acreage charge. However, the drain districts have established a \$1.00 minimum assessment per parcel of property. Eleven of the property owners of Shiloh Drain paid more than \$50.00 on the assessment. By far the greatest number of assessments are \$1.00 to \$2.50 per parcel.

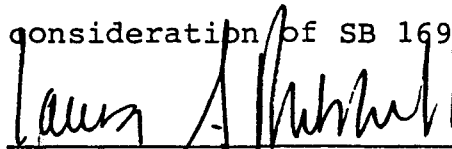
Generally, the residential owners have not been interested in the operation or maintenance of the drain districts. The removal of excess irrigation water and groundwater are historic problems of the district which have little meaning to most of the residents. However, irrigated farmland remains within the districts and continues to need drainage ditches for removal of excess irrigation water and groundwater. The drain districts are not obsolete as entities but are of interest to very few.

The commissioners have been concerned about the expense and difficulty of holding conventional elections for their commissioners. The expense of an election would be far in excess of the amount periodically raised for the maintenance of the drain ditches. It has also been the experience of the commissioners that many, if not most, of the property owners in the district are not interested in voting for the election of the commissioners.

The mail ballot proposal offered a practical solution to the problems of expense and limited interest faced by small public bodies such as drain districts, while assuring that interested citizens have the ability to participate in elections if they desire.

In order to make a levy of an assessment, the commissioners must have the list of property owners updated. By presenting this list to the election administrator, the mail ballot procedures can be followed by mailing a ballot to each of the land owners listed. After the election of the commissioners, the need for and amount of an assessment can be determined following the existing statutory procedures.

We believe that the mail ballot offers a simplified procedure for participation of interested citizens in matters such as drain district elections without undue administrative expense. For the reasons presented we urge favorable consideration of SB 169.



LAURA A. MITCHELL

Secretary for
Arnold Drainage District
Birely Drainage District
Danford Drainage District
Shiloh Drainage District

STANDING COMMITTEE REPORT

February 4 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 162

first reading copy (white)
color

EXTENSION OF BOND VALIDATING ACT

Respectfully report as follows: That SENATE BILL No. 162

~~DO PASS~~

~~SENATE~~

Chairman.

STANDING COMMITTEE REPORT

February 4, 1985

MR. PRESIDENT

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE BILL** No. **164**

first reading copy (**white**)

color

BOARD OF INVESTMENTS TO HIRE PERSONNEL AND KEEP CERTAIN RECORDS

Respectfully report as follows: That **SENATE BILL** No. **164**

DO PASS

~~DO NOT PASS~~

.....
Chairman.