

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

January 14, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on January 14, 1987, at 9:00 a.m. in Room 437 of the State Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL NO. 106: Rep. Kadas, House District #65 in Missoula and sponsor of the bill, stated it is a straightforward bill that allows the school districts to use the mail ballot. The school business administrators asked him to present this bill to the committee.

PROPONENTS: Larry Johnson, Clerk and Business Manager for School District #1, stated he was requested to bring this legislation before the committee to inform them that the smaller school districts would like to be included in that procedure. The larger school districts might never use this procedure due to costs involved but it might be very cost effective for the smaller schools. This particular procedure can be initiated by an election administrator or by the governing body.

Marylin Miller from the Office of Public Instruction advised the committee members that Ed Argenbright, Superintendent of Public Instruction, supports this bill.

Margaret Davis, League of Women Voters, submitted written testimony in support of HB 106 (Exhibit #1). This legislation would apply to bond elections only and not candidate elections. Mail elections are a relatively new procedure nationwide but is an optimal way of holding an election.

OPPONENTS: None.

DISCUSSION OF HOUSE BILL NO. 106: Rep. Nelson asked Margaret Davis what effect the mail election would have on the 40 percent voter turnout requirement, and she responded that there might possibly be a problem in the smaller districts. Rep. Nelson asked if the 40 percent voter turnout requirement could be changed to read a "55 percent favorable vote of those who voted", and Margaret responded that would have a considerable impact.

Rep. Kadas closed the discussion by thanking the committee for its consideration.

CONSIDERATION OF HOUSE BILL NO. 132: Rep. Fritz, House District #56 and sponsor of the bill, stated this was a straightforward bill that allows people to buy some time in the Public Employees' Retirement System. It would allow people who have served in public employment

in other states to purchase credit for this service in PERS systems. If they have been a member of the PERS in Montana for five years and have received a refund of their membership contributions under the other system, they may buy up to five years of service in PERS. The bill is actuarially sound.

PROPOSERS: None.

OPPOSERS: None.

DISCUSSION OF HOUSE BILL NO. 132: Rep. Jenkins asked Rep. Fritz if, under this legislation, when you have a retirement program where the other state paid in a certain percentage and the state of Montana pays in so much, then that would be a lump sum. Rep. Fritz responded that the person purchasing the time would pay the entire cost for qualifying the service in PERS. In connection with Rep. Fritz's statement that there would be no costs to the system, Linda King said that a fiscal note has been submitted which contains further explanations but essentially the member would be responsible for paying the actuarial cost of qualifying the service. There would be no negative impact on the system. Rep. Peterson asked Linda if she was eligible to bring five years into the system, would she bring into the system both the actual money plus the interest it would have earned during those five years. Linda replied that the actuary calculates the costs involved on the average.

Rep. Fritz closed the discussion on HB 132 and the committee recessed at 9:30 a.m. for ten minutes.

The committee reconvened at 9:40 a.m.

CONSIDERATION OF HOUSE BILL NO. 107: Rep. Winslow, House District #89 and sponsor of the bill, stated the bill is called the Ethics Committee Bill. It is not a new measure. In the past year there have been a considerable number of issues that have brought attention to the need of the state to have some kind of a control mechanism as far as ethics not only for elected officials but for all state employees. He feels that public trust is something that has to be dealt with. There is a strong perception among the citizens that the people representing us are unethical and, in many cases, dishonest. This has caused a real breach of confidence among the voters. This bill formulates a commission made up of three Republicans and three Democrats that would oversee the practices of ethics in state government. It would be administratively assigned to the Department of Administration. It would be a bipartisan effort. The commission would establish a penalty section which would deal with campaign abuses and ethics violations. Fines and penalties would be established for offenders. It would also establish an opinion process, which would be strictly advisory in nature. The commission would also call for standards of actions for public officials which is very important and would make disclosure mandatory and not voluntary. Ethics is a problem in the

state government and hopefully by getting politics out of the process, some standards can be set that are not based on political appointments that will help the public to be more confident in those who represent them in state government.

PROPONENTS: None.

OPPONENTS: Steve Brown appeared as a private citizen in opposition to HB 107. He supports only the portion of this bill that attempts to "put teeth into the ethics law". However, he does oppose the portion of the bill that would establish a separate commission. We need to have one person with vested authority to make the decisions on prosecution, fairness and ethics. That person should serve one six-year term, and should not be allowed to run for political office after that. He feels the commission appointment process will elevate partisanship, and that it may also encounter serious constitutional problems. He recommended leaving the responsibility with the Commissioner of Political Practices.

Patrick Driscoll, Chief Assistant Attorney General, didn't support or oppose the bill but had an opinion. He feels there is a serious problem with the bill that can probably be corrected. If it is not corrected, it can be unconstitutional, namely that the bill appears to exempt legislators from the same penalties as other officials and employees of the state. This is an equal protection problem that could possibly undermine the purpose of the entire act. He concurred with Steve Brown on the problems of the appointment process.

Margaret Davis, representing the League of Women Voters, opposed HB 107 claiming the separation of powers problem is an irreparable defect. The league opposes the bill on the specific grounds that a commission is not a constitutional or effective mechanism for enforcing and monitoring campaign finance and lobby disclosures laws. Written testimony was submitted (Exhibit #2). She urged a do not pass by the committee.

Kim Wilson, representing Common Cause, opposes HB 107 with some reluctance. He feels the bill is well intentioned, but it has problems that will result in its being unworkable. Common Cause feels the present system should be allowed to continue to work as it has in the past. It is apparent that a new board system will cost a significant amount of additional money. He stated HB 107 creates a somewhat cumbersome mechanism for enforcing laws, and it is more effective to have one commissioner who can deal with problems on a day-to-day basis.

Don Judge, Montana State AFL-CIO, agreed there are some positive points in the bill but wished to oppose HB 107. He suggested leaving things the way they are now.

George Ochenski, Montana Environmental Information Center, spoke in opposition to HB 107 and indicated his appreciation to Rep. Winslow's attempts to "put the teeth into the ethics law". However, there are many weaknesses in the bill and he urged a do not pass.

DISCUSSION OF HOUSE BILL NO. 107: Rep. Cody asked Rep. Winslow if there could be constitutional problems with HB 107, and Rep. Winslow responded that that may be a problem. His solution to a possible constitutional problem would be that the republicans would choose three individuals and the democrats would choose three individuals and those names would be given to the governor for his appointment. Rep. Moore asked Rep. Winslow if reporting was mandatory, and he responded that disclosure was not. Rep. Fritz asked Rep. Winslow to explain what would happen on a 3-3 vote. Rep. Winslow said that not all issues are political issues. Rep. Moore asked if HB 107 would save some money and Rep. Winslow replied "not necessarily". The purpose of the bill is not to save money. He said we should be worried about ethics and not the fiscal implications. There is a direct tie between fiscal and ethical matters. Rep. Whalen directed a question to any opponent who wished to reply. He wondered what would happen if the system did not have a board of commissioners of three republicans and three democrats but instead was a position elected by the people on a nonpartisan ticket and was not under the executive branch of government. Margaret Davis replied that she thought that would take a constitutional amendment, but she did not feel it would be more efficient or expedient. Steve Brown commented that public financing probably would have to be set up because statewide campaigns are costly and would require taxpayer money.

Rep. Winslow closed discussion on HB 107 by stating he feels there are faults in the present system that can be made better and that is why he has submitted this bill to the committee for careful consideration.

The committee recessed at 10:34 a.m. and reconvened for executive session at 10:45.

DISPOSITION OF HOUSE BILL NO. 100: Chairman Sales asked the committee if it would approve of tabling the bill until the annual report is received. Rep. O'Connell moved to TABLE HB 100, and the motion was seconded by Rep. Jenkins. The vote was unanimous.

DISPOSITION OF HOUSE BILL NO. 106: Rep. Phillips moved DO PASS that was seconded by Rep. Moore. Rep. Nelson moved to amend page 2, line 19, to limit mail ballot elections to third-class school districts. The motion to amend the bill failed 5-13. The DO PASS motion on the bill passed by unanimous vote.

DISPOSITION OF HOUSE BILL NO. 101: Rep. Jenkins moved DO PASS; it was seconded by Rep. Roth. Rep. Whalen made a substitute motion DO NOT PASS which was seconded by Rep. Moore.

State Administration Committee

January 14, 1987

Page -5-

Rep. Jenkins stated that without communication there will never be peace in the world. Rep. Roth stated that people are perceiving HB 101 as racist when it is not. The bill is not designed to punish anyone who does not speak English; rather it is designed to help those who do not speak English to pursue that. Rep. Fritz has a problem with HB 101 because he does not believe in an officially bilingual or trilingual or multilingual society. He does not see any necessity for this law in Montana at the present time but he thought about offering an amendment which would state that "the use of foreign and native languages is encouraged". If HB 101 passes this committee, he will probably offer that on the floor. He feels this bill, however well intentioned, raises a lot of unnecessary concerns and fears for public policy in Montana at this time. Rep. Whalen stated the bill does not do anything except insult people that have a different language and culture, and he sees no necessity for the bill.

On a roll call vote of 7-11, the DO NOT PASS motion failed. The committee then reverted to the DO PASS motion.

Rep. Fritz suggested an amendment on page 2, following line 4, adding subsection (a) "the teaching, use, and retention of foreign or native languages is encouraged". Rep. Phillips moved the amendment which was seconded by Rep. Compton. The motion to AMEND the bill was passed by unanimous vote. The DO PASS AS AMENDED motion on the bill carried by a vote of 14-4.

DISPOSITION OF HOUSE BILL NO. 132: Rep. O'Connell moved DO PASS seconded by Rep. Phillips. The vote was unanimous (18-0).

DISPOSITION OF HOUSE BILL NO. 107: Chairman Sales advised the committee that the statement of intent had been distributed to committee members, and that a fiscal note is coming. The committee decided to take executive action on this bill at a later date.

ADJOURNMENT: There being no further business to come before this committee, the committee adjourned at 11:20 a.m.

  
Walter Sales, Chairman

bd

WITNESS STATEMENT

NAME Margaret S. Davis BILL NO. HB 106  
ADDRESS 816 Flowerree, Helena MT 59601 DATE 14 Jan 87  
WHOM DO YOU REPRESENT? League of Women Voters of MT  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mail elections offer some good options to smaller jurisdictions which are required to hold annual elections.

As the option is expanded, the League of Women Voters offers these reminders or cautions,

1. The optional nature of mail elections is important
2. Mail elections require that the voter provide postage for the return of the ballot.
3. Mail elections are still being tested and close attention to further expansion is necessary so that they are not subject to abuse or manipulation.

EXHIBIT #2  
DATE Jan 14, 1987  
HB 107

WITNESS STATEMENT

NAME Margaret S. Davis BILL NO. HB 107  
ADDRESS 816 Florence, Helena MT 59601 DATE 14 Jan 87  
WHOM DO YOU REPRESENT? League of Women Voters of MT  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Statement attached*

HB 107

14 January 87

Margaret S. Davis 443-3487  
League of Women Voters of Montana

The League opposes HB 107 on the specific grounds that a commission is not a constitutional or effective mechanism for enforcing and monitoring campaign finance and lobby disclosure laws.

In 1976 the US Supreme Court gave a wide-ranging and definitive ruling on the federal election law regulating campaign funding. It struck down the original law governing the appointment of the federal election commission because it infringed on the appointment powers of the chief executive. On page 22 of HB 107 (line 14) the proposed appointment method does not meet separation of powers criteria. The involvement of legislative leaders and other elected officials along political party lines clearly abrogates executive powers and duty.



HB 107  
League of Women Voters of Montana  
Margaret S Davis

1/14/87

The Montana League has followed this office and these issues since their introduction. Each session has brought assaults on the office, but over the years the people have endorsed the mission of the Commissioner of Political Practices. Interest in fair, honest elections remains high. Lobby disclosure legislation was added by initiative. Clearly trashing this office and meaningful oversight of these statutes does not serve the public interest.

The Commissioner's task in making the campaign finance and lobby disclosure statutes readily understood and applicable has been accomplished through rules and clean-up legislation. The League believes that this office has come of age and should be allowed to perform its duties as constituted in current Montana law.

DAILY ROLL CALL

State Administration COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 14, 1987

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales	✓		
John Phillips	✓		
Bud Campbell	✓		
Dorothy Cody	✓		
Duane Compton	✓		
Gene DeMars	✓		
Harry Fritz	✓		
Harriet Hayne	✓		
Gay Holliday	✓		
Loren Jenkins	✓		
Janet Moore	✓		
Richard Nelson	✓		
Helen O'Connell	✓		
Mary Lou Peterson	✓		
Paul Pistoria	✓		
Rande Roth	✓		
Tonia Stratford	✓		
Timothy Whalen	✓		

# STANDING COMMITTEE REPORT

January 14 19 37

Mr. Speaker: We, the committee on STATE ADMINISTRATION  
report HB 132

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in     | <input type="checkbox"/> as amended                   |
| <input type="checkbox"/> do not pass        | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

\_\_\_\_\_  
Chairman

*MS.* reading copy ( \_\_\_\_\_ )  
color

ROLL CALL VOTE

*Di Pass.  
Unanimous*

State Administration

COMMITTEE

DATE Jan 14, 1987 BILL NO. 132 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Walt Sales		
John Phillips		
Bud Campbell		
Dorothy Cody		
Duane Compton		
Gene DeMars		
Harry Fritz		
Harriet Hayne		
Gay Holliday		
Loren Jenkins		
Janet Moore		
Richard Nelson		
Helen O'Connell		
Mary Lou Peterson		
Paul Pistoria		
Rande Roth		
Tonia Stratford		
Timothy Whalen		

TALLY

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Secretary

Chairman

MOTION: \_\_\_\_\_  
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# STANDING COMMITTEE REPORT

January 14

19 37

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report HB 101

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

Chairman

## "An Act to Designate English as the Official State Language"

### BE AMENDED AS FOLLOWS:

1. Page 2, line 3. *"state" D*  
Following: "Language."  
Insert: "(1)"

2. Page 2.  
Following: line 4  
Insert: "(2) The teaching, use, and retention of foreign or native languages are encouraged."

*MS*  
FIRST

WHITE

reading copy ( )  
color

ROLL CALL VOTE

*Do NOT Pass*

State Administration

COMMITTEE

DATE 1/13/87 BILL NO. 101 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Walt Sales		✓
John Phillips		✓
Bud Campbell	✓	
Dorothy Cody	✓	
Duane Compton		✓
Gene DeMars		✓
Harry Fritz	✓	
Harriet Hayne		✓
Gay Holliday	✓	
Loren Jenkins		✓
Janet Moore	✓	
Richard Nelson		✓
Helen O'Connell		✓
Mary Lou Peterson		✓
Paul Pistoria	✓	
Rande Roth		✓
Tonia Stratford		✓
Timothy Whalen	✓	

TALLY

7      11

Secretary

Chairman

MOTION: \_\_\_\_\_  
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# STANDING COMMITTEE REPORT

January 14

19 **87**

Mr. Speaker: We, the committee on STATE ADMINISTRATION  
report HB 106

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in     | <input type="checkbox"/> as amended                   |
| <input type="checkbox"/> do not pass        | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

\_\_\_\_\_  
Chairman

*MS* reading copy ( \_\_\_\_\_ )  
color

*Mitton  
des*

ROLL CALL VOTE

State Administration

COMMITTEE

DATE Jan 14, 1987 BILL NO. 106 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Walt Sales		
John Phillips		
Bud Campbell		
Dorothy Cody		
Duane Compton		
Gene DeMars		
Harry Fritz		
Harriet Hayne		
Gay Holliday		
Loren Jenkins		
Janet Moore		
Richard Nelson		
Helen O'Connell		
Mary Lou Peterson		
Paul Pistoria		
Rande Roth		
Tonia Stratford		
Timothy Whalen		

TALLY

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Secretary

Chairman

MOTION: \_\_\_\_\_  
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\_\_\_\_\_  
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ROLL CALL VOTE

*Tablet  
Unanimous  
vote*

State Administration

COMMITTEE

DATE 1/13/87 BILL NO. 100 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Walt Sales		
John Phillips		
Bud Campbell		
Dorothy Cody		
Duane Compton		
Gene DeMars		
Harry Fritz		
Harriet Hayne		
Gay Holliday		
Loren Jenkins		
Janet Moore		
Richard Nelson		
Helen O'Connell		
Mary Lou Peterson		
Paul Pistoria		
Rande Roth		
Tonia Stratford		
Timothy Whalen		

TALLY \_\_\_\_\_

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

MOTION: \_\_\_\_\_  
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\_\_\_\_\_  
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ROLL CALL VOTE

*Wait for  
fiscal notes,  
Take action later*

State Administration

COMMITTEE

DATE Jan. 14, 1987 BILL NO. 107 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Walt Sales		
John Phillips		
Bud Campbell		
Dorothy Cody		
Duane Compton		
Gene DeMars		
Harry Fritz		
Harriet Hayne		
Gay Holliday		
Loren Jenkins		
Janet Moore		
Richard Nelson		
Helen O'Connell		
Mary Lou Peterson		
Paul Pistoria		
Rande Roth		
Tonia Stratford		
Timothy Whalen		

TALLY \_\_\_\_\_

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

MOTION: \_\_\_\_\_  
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\_\_\_\_\_  
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VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 106

DATE Jan. 14, 1987

SPONSOR Kelley

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Margaret Davis	Charge of Women Voters ANV / WNT	X	
Larry B. Johnson	MASBO	X	
Eric Flewer	MEA		
Mike Kelley	HB 55	✓	
Harilyn Hillen	Office of Public Instruction	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Statement of Intent

\_\_\_\_\_ Bill No. 107

A statement of intent is required for this bill because sections 8 and 32 grant the commission on ethics and political practices the authority to adopt rules concerning procedures for disclosing conflicts of interest as required in 2-2-131; requesting and issuing advisory opinions as provided in sections 9 through 14; and conducting hearings under sections 30 through 33.

The legislature contemplates that the rules should address the following subjects:

- (1) forms to be used by a public officer or employee to make a mandatory or voluntary disclosure of interest;
- (2) procedures to ensure that the public will be allowed reasonable access to disclosure statements filed with the commission;
- (3) guidelines for a public officer or employee or county attorney to follow in completing a request for an advisory opinion;
- (4) techniques for protecting the identity of the party about whom an advisory opinion is written;
- (5) procedures for making advisory opinions available to the public; and
- (6) procedures for conducting a hearing on an alleged violation of 13-35-234, 13-35-301, or section 28 that include:

(a) prompt notification to the parties as to the date, time, and place of the hearing;

(b) methods for ensuring that all parties have an opportunity to be heard, present evidence, and cross-examine witnesses; and

(c) the manner for issuing the commission's findings and determinations following the meeting.

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OFFICE OF THE  
SECRETARY OF STATE  
Room 225, Capitol Building  
Helena, MT 59620

MEMORANDUM:

- Administrative Rules.....444-2055
- Corporations Bureau.....444-3665
- Elections Bureau.....444-4732
- UCC Bureau.....444-5368
- Other

Contact: Rep Kadar

Date: JAN 14 87

Message: Thirty two mail ballot elections have been conducted since the bill passed in '85 - most were municipal. Some irrigation districts, spec ballot issues

*Jean Johnson*  
444-5378

This was submitted to the Committee after the minutes were typed and is enclosed here for reference.

Betty DeYoung, Secretary

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 107

DATE Jan 14, 1987

SPONSOR Winslow

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Margaret Davis	LWV MT		X
Kara Stornitz	League of Women Voters		
Kim Wilson	Common Cause		X
Eleanor Weed	P.L.C.		X
George Ochenski	MEIC		X
Don Judge	MT STATE AFL-CIO		X
Steve Brown	Self		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 132

DATE Jan. 14, 1987

SPONSOR Fritz

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.