

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on January 24, 1989, at 10:00 a.m. in Room 331 of the Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure

HEARING ON SB 192 and SB 193

Presentation and Opening Statement by Sponsor:

Senator Judy Jacobson indicated that SB192 and SB193 are somewhat related, and asked the committee's permission to present both bills simultaneously.

Chairman Farrell asked the committee if there were any objections. Hearing none, he announced that SB192 and SB193 would be presented simultaneously.

Senator Jacobson noted that both bills are by request of the Legislative Audit Committee. She indicated that SB192 requires the expenditure of non-general fund money first. The current law requires that the Department of Administration apply expenditures against non-general fund money first. Senator Jacobson stated that, as a practical matter, the Department of Administration is not in a position to enforce the law, as the expenditures are applied against an appropriation by the individual State agencies, and not by the Department of Administration. SB192 is simply amending the law to

require that each individual State agency be responsible for applying expenditures against non-general fund money first. She noted that, as individual State agencies actually expend the monies, they should also be responsible for insuring compliance with the law. Senator Jacobson again stated that this bill amends the law to make the agencies individually responsible.

Senator Jacobson reported that SB193, which is also at the request of the Legislative Audit Committee, relates to the pre-audit and transmittal of claims. She stated the current law provides that the Department of Administration may not make any charge against an appropriation, unless the balance of the appropriation is available and adequate. She noted that it is the individual State agencies which makes a charge against an appropriation, and the Department of Administration has no control over where the agency charges its expenditures. This bill is to make each individual State agency responsible for insuring that its appropriations balances are adequate and, since each individual State agency makes charges against the appropriations, it is appropriate that the agency monitor their own appropriations.

Senator Jacobson indicated a representative of the Auditors Office is available to answer questions.

Questions From Committee Members:

- Q. Senator Bengtson what the practice was before, and were the agencies creating a deficit. She further asked how they could spend money if they did not have a balance.
- A. Senator Jacobson responded they were put into almost a loan situation. The Department of Administration would say okay, after the fact, or they would simply indicate the appropriation was over-expended. She indicated what the bill is trying to do is take some of the burdens from the Department of Administration, which they were given when there were pre-audits, and give it to the State agency, so that they are responsible.
- Q. Senator Bengtson further asked if the agencies have access to what the balance is.
- A. Senator Jacobson responded that they do.
- Q. Senator Rapp-Svrcek asked, in the case of the Department of State Lands that provides fire fighting services, who sometimes over-spend their appropriation and then come

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in for a supplemental, will this stop them from providing those services.

- A. Senator Jacobson responded no, that the bill does not change the present practice. It just puts the burden on the agency, rather than on the Department of Administration. She noted that, in the past, the Department of State Lands goes to the Finance Committee, asks to transfer money from the second year into the first year, and then comes in for a supplemental. She added they can still do that. Senator Jacobson stated the law says that they can not over-expend in certain areas, and the Department of Administration is responsible for seeing that they do not, but the Department of Administration does not know that until after it has been done.

DISPOSITION OF SB192 and SB193

Discussion:

Senators Hofman and Vaughn offered motions that SB192 and SB193 do pass.

Recommendation and Vote:

Motions passed by the committee that SB192 and SB193 do pass.

HEARING ON SB 188

Presentation and Opening Statement by Sponsor:

Senator Paul Rapp-Svrcek reported that SB188 would permit the Secretary of State's office to establish a computer format for the submitting of annual corporate reports. He stated that, presently, all corporations which are listed in the Secretary of State's office file an annual report which identifies the officers, registered agents, and other public information about the corporation. The Secretary of State's office mails out over 30,000 annual report forms to the corporations which must be returned with the annual report fee to the office by April 15 of each year. Senator Rapp-Svrcek indicated that, if passed, SB188 would lay the ground-work for corporations to file their annual report via computer. He noted that, initially, the office would establish standards for the filing of annual reports on a computer disc, and this would allow corporations to send in their annual report on a computer

disc, which would then be transferred to the Secretary of State's office. Senator Rapp-Svrcek stated this change can be made with no fiscal impact to the State. He indicated, in the future, they hope to allow corporations to file their annual report via a computer modem hook-up. When this technology is phased in, the office will be able to change the process from mailing forms back and forth to computer information transfers via the modem. Senator Rapp-Svrcek indicated this would reduce the volume of mail processed by the Secretary of State's office which would, in turn, lead to the reduction of staff FTEs necessary to perform the duties related to annual reports. He further indicated that the Secretary of State is not asking for appropriation authority with this legislation, that it merely brings the office into the 20th and 21st century in terms of forms processing. Senator Rapp-Svrcek indicated he hopes the committee will vote in favor of the bill.

Senator Rapp-Svrcek indicated Doug Mitchell of the Secretary of State's office is available to answer any questions.

List of Testifying Proponents and What Group they Represent:

Doug Mitchell, Chief Deputy, Secretary of State's Office

Testimony:

Mr. Mitchell's testimony is attached as Exhibit 1.

Questions From Committee Members:

- Q. Senator Bengtson asked, regarding the statement that there is no appropriation authority being requested, if all they are asking to do is lay forth the format, and further asked if they currently have the computer capability for that.
- A. Mr. Mitchell responded they do. He added that, at this point, the reason they have not proposed a full-blown plan for the installation of a hook-up to file these reports is that technology is changing to such a degree, they are not sure exactly what format it will take. He noted that, for example, there may be a move toward optical disc technology, which would make the processing of paper fairly easy, and the computer would be much more verifiable and archival in quality. He noted they are not sure exactly where, over the next 2 years as they pursue this technology, this will take them. He added that, presently, they may receive 100 annual reports from

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one attorney, and these have to be opened, stamped, and each individual fee filed on the computer. He noted this takes a long time. Mr. Mitchell stated they currently have the technology, at no additional fiscal cost, to receive a disc and have that disc imputed into their computer system.

- Q. Senator Bengtson stated she was not aware that a bill in the Legislature was necessary to give them the capability of upgrading their system.
- A. Mr. Mitchell responded that, currently, the law states an individual must submit their annual report on paper through the U. S. Mail. That is why they need the authority to allow, not mandate, them the option, if they are able to come up with the fiscally responsible technology to do it.
- Q. Senator Harding asked how the small corporations would do differently.
- A. Mr. Mitchell stated that they do not mandate that the small corporations change anything immediately. They will still send out the annual reports and, if they would like to submit them by mail, that is fine. He noted that a great percentage of their annual reports do come through law firms, and most of those law firms are computerized. Mr. Mitchell indicated they do not see this as an elimination of that process, but as a reduction. Perhaps they will receive 15,000 by computer, and 15,000 by mail. He added they do not want to create a process that would alleviate the usage for a small business or small corporation.
- Q. Senator Harding stated she, personally, does 2 annual reports each year, and she does not have a computer. She added that probably 50% of small business in the state would not have this capability, and she would be opposed to implementing a law that, maybe in 2 years, will mandate those people to send in their annual report on a computer. Senator Harding indicated that is a slap in the face for small business.
- A. Mr. Mitchell stated they agree, and that is why they asked that this legislation be drafted to give the option. They are not asking to eliminate the ability for a corporation to file, by posting in the U. S. Mail, their response on or before April 15. Mr. Mitchell added that, to his knowledge, it would not be something

Secretary Cooney would think of doing, and that he is very committed to small business in the state.

- Q. Senator Anderson indicated he assumes they will continue to send out the forms for small corporations.
- A. Mr. Mitchell responded they certainly would. He added that the form would not change, and they would still send out their bulk mailing at the beginning of the year, as is mandated that they do. He noted the response is all they are considering changing.
- Q. Senator Harding asked if this is not to eliminate sending out the corporate annual report forms, and would it be at their discretion, if they are computerized, to send in their discs.
- A. Mr. Mitchell responded that is correct. He indicated the sending out of the annual reports is not a major function of their office. It is their belief it would take more staff time to determine which people to send discs to, and which people to send electronic mail to, and that it makes sense to continue doing it the way they are now. He noted this would allow the individual corporations to potentially choose from a number of mechanisms to file that report.
- Q. Senator Bengtson stated this would not cut down on FTEs in the immediate future, because they will be offering two different systems for, perhaps, a long time. She added it does, however, have the potential.
- A. Mr. Mitchell responded that is correct. He added that is why, when they filed the fiscal note, they were not able to come before this committee and indicate they would be able to reduce FTEs by a certain amount. They still have to determine how it will be formatted, and then see if anyone will use it. He noted they would like to come before the Budget Committee and the subcommittee, in the next biennium, and request 2 FTEs be taken out of their corporate division because they have been successful in doing this.

Closing by Sponsor:

Senator Rapp-Svrcek indicated the fiscal note has not been received but, as he understands it, it shows no fiscal impact.

Chairman Farrell announced executive action on SB188 would be postponed until the fiscal note is received.

OTHER BUSINESS

Discussion: SB 88

Senator Rasmussen offered a motion that SB88 do pass. He noted it was mentioned that, since the Legislature passed this bill last session, it must be good. Senator Rasmussen stated he does not think the Legislature is infallible. Regarding the question of letting it work, he indicated things are in chaos right now, and these things are thrown into no-man's land because people don't know where they sit with this particular bit of legislation on the books.

Senator Rasmussen indicated he will go back to his original philosophy that it is unfair to make someone pay to introduce legislation, when everybody else does not. He noted that part of the responsibility of being here is the hassle of dealing with these, but that is the way the process works. Senator Rasmussen indicated he thinks this was a mistake that was made last time, and that it should be taken off the books.

Senator Harding noted she knows this bill was passed for a particular reason, and that was to stem the tide of everyone wanting to come in and be licensed. She indicated she would agree that the \$6,500 fee is excessive, but stated she can not vote for the bill just to do away with this. Senator Harding indicated she would be open to another recommendation by Senator Rasmussen, but she would vote against it the way the bill is now.

Senator Abrams indicated that Section 2-8-206 states an application for review must include an application fee not to exceed \$6,500, and that the remainder must be refunded to the applicant. He asked what is the audit on that, and is it costing that much. Senator Rasmussen responded they have not actually gone through one yet, but the Auditors seem to feel that it will cost that much. Senator Abrams further asked if some of these boards could be combined, or is it necessary to have a specific board for every group.

Senator Rasmussen indicated that is being done, somewhat, but the problem is that one group may not know anything about another, and they have to know a little about the profession in order to police it. He added that the boards do not use

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general fund money. The members pay an annual fee for their license, which funds the board, and it is not costing the taxpayer anything. Senator Bengtson indicated this was except for staff, and Senator Rasmussen responded that staff is paid for as part of what each board pays.

Chairman Farrell called for a roll call vote on the motion that SB88 do pass. The motion passed by the committee that SB88 do pass, with the roll call vote indicating 5 in favor and 4 opposed.

There was further discussion regarding SB88. Senator Rasmussen indicated the law lays out 10 criteria that are to be addressed in the proposal, and he suggested the applicants could make out the report, and present it to the Legislature when they come in for licensing.

Chairman Farrell indicated he and Senator Norman are researching what other states do, and are looking into the possibility of creating a super board of licensing that would be the authority, instead of the Legislature. He indicated they were looking at other possibilities such as, as is done in California, having one board for the medical profession. Chairman Farrell noted there is a lot of research that needs to be done, as this is not something you work on in a short amount of time. Senator Bengtson suggested that if this bill did pass, the Public Health Committee could use the list of criteria as a check-list, without putting it in the statutes.

ADJOURNMENT

Adjournment At: 10:35 a.m.

  
WILLIAM E. FARRELL, Chairman

WEF/mhu  
SB188.124



ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: January 24, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

**SENATE STANDING COMMITTEE REPORT**

January 24, 1989

**MR. PRESIDENT:**

We, your committee on State Administration, having had under consideration SB 192 (first reading copy -- white), respectfully report that SB 192 do pass.

**DO PASS**

Signed: Farrell  
William E. Farrell, Chairman

84-89  
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SENATE STANDING COMMITTEE REPORT

January 24, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 193 (first reading copy -- white), respectfully report that SB 193 do pass.

DO PASS

Signed: Farrell

William E. Farrell, Chairman

SENATE STANDING COMMITTEE REPORT

January 24, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 88 (first reading copy -- white), respectfully report that SB 88 do pass.

DO PASS

Signed: Farrell  
William E. Farrell, Chairman

1-24-89  
99  
11:53

SECRETARY OF STATE  
STATE OF MONTANA

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 1/24/89

BILL NO. SB188

Mike Cooney  
Secretary of State



Montana State Capitol  
Helena, Montana 59620

Testimony before Senate State Administration  
January 24, 1989

Doug Mitchell, Chief Deputy Secretary of State

Mr. Chairman and Members, for the record my name is Doug Mitchell. I appear before you as Chief Deputy in the Office of The Secretary of State to ask for your support of SB 188.

Mr. Chairman, SB 188 would allow the Secretary of State to establish a format for the acceptance of computer transmitted annual reports.

Under current law, all Montana Corporations wishing to remain in good standing, are mandated to file an annual report by depositing said report in the U.S. Mail between January 1 and April 15 of each year. These reports are actually documents created by this office and mailed to the corporations for there completion.

Between now and April 15, 58 working days, the Secretary of State will receive roughly 30,000 annual reports. These reports will need to be opened, sorted, stamped, and then entered on the computer. In order to complete this procedure by April 15 of this year, our office will need to process an average of 517 annual reports each working day.

Currently, this massive workload is currently managed through the hiring of 2 additional FTEs during the annual report period. It is our position that it is time to pursue a technological solution to better manage this important activity.

SB 188 would allow us to develop an acceptable format for the computerized filing of reports. Clearly, such a step could remove many of the costs currently associated with the processing of annual reports.

Mr. Chairman, this concludes my formal remarks in support of SB 188. I thank the Chairman and the members for their time, and I respectfully urge the committee to recommend passage of this good bill.

EXHIBIT NO. 2

DATE 1/24/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB188

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Doug Mitchell

DATE:

1/24/89

Address:

SECRETARY OF STATES OFFICE

Phone:

444-2034

Representing whom?

SECRETARY OF STATE

Appearing on which proposal?

SB188

Do you:

SUPPORT? X AMEND?      OPPOSE?     

Comments:

See exhibit #1

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



ROLL CALL VOTE

DATE 1/24/89  
 BILL NO. SB 88

STATE ADMINISTRATION COMMITTEE  
 51ST LEGISLATIVE SESSION

DATE: January 24, 1989 BILL NO. SB 88 TIME: 10:30 A.M.

NAME	YES	NO
HUBERT ABRAMS		✓
JOHN ANDERSON, JR.	✓	
ESTHER BENGTON	✓	
WILLIAM E. FARRELL		✓
ETHEL HARDING		✓
SAM HOFMAN	✓	
PAUL RAPP-SVRCEK	✓	
TOM RASMUSSEN	✓	
ELEANOR VAUGHN		✓
	5	4

*Mary Upchurch*  
 Secretary

*William E. Farrell*  
 Chairman

Motion: That SB 88 do pass.

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