

MINUTES

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

Call to Order: By Chairman William E. Farrell, on February 15, 1989, at Room 331, Capitol.

ROLL CALL

Members Present: 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: Senator Hubert Abrams

Members Absent: None

Staff Present: Eddy McClure

HEARING ON SB 397

Presentation and Opening Statement by Sponsor:

Senator Darryl Meyer testified that SB397 will require that new rules, proposed by the departments, be reviewed by the Governor, first. He noted the Governor may approve them, or may suggest some changes, and that this would give the Governor a chance to find out what his department heads are doing.

List of Testifying Proponents and What Group they Represent:

Jim Mockler, Executive Director, Montana Coal Council
Robert A. Ellerd, Governor's Office
John Lahr, Montana Power Company
Rose Hughes, Montana Health Care Association
Carol Mosher, Montana Grange, Farmers Union, Women Involved with Farm Economics, Montana Cattle Men's Association, Montana Stockgrowers Association, Montana Cattle Feeders, Montana Cattle Women, Montana Dairymen's Association, Montana Graingrowers, Montana Association of State Grazing Districts
Gary Langley, Executive Director, Montana Mining Association
Jim Tutwiler, Montana Chamber of Commerce
Don Allen, Executive Director, Montana Wood Products Association

Testimony:

Mr. Mockler stated that, speaking on behalf of one of the most highly regulated industries in Montana, it can be extremely exasperating when state agencies come out with proposed rules. He indicated that, when they go through the hearing process, often times those rules are overruled or, through the process, the Governor does get into it. Mr. Mockler stated he thinks that the Governor, as chief executive officer of the state, not only has the right, but should have the responsibility of reviewing the rules that are proposed by his departments, before they become published and go into the hearing process. He indicated he thinks it is part of the executive branch, and should have been practice. Mr. Mockler noted he is not sure it requires a statute but, since the Governor has asked that it be statutory, he thinks it is fair, and that it is what he should do, since it is his agencies, and his directive. Mr. Mockler indicated he hopes the committee will support the bill.

Testimony:

Mr. Ellerd testified there is an amendment to this bill, which will be presented to the committee in a few minutes, and indicated the amendment will read the same as the amendment already supplied to the committee on SB396, a copy of which is attached as Exhibit 3. He indicated the amendment is to page 2, line 1, and reads as follows: Insert "As promulgated by agencies in the Executive Branch as defined in 2-15-102(2), MCA". Mr. Ellerd indicated that reads that an agency means an office, commission, committee, or department council, division, bureau, section, or any other entity, or implemented in the executive branch of state government. He noted that will be the amendment to this bill. Mr. Ellerd added the Governor strongly supports this bill.

Testimony:

Mr. Lahr testified he supports both SB397 and SB396, and indicated he will make one presentation. He noted he is also authorized to speak for Gene Phillips, an attorney representing Civic Power and Light, who asked him to pass along his support on these two bills.

Mr. Lahr stated Montana's rule-making procedure was instituted to bring order out of chaos, to define procedures, and provide notification to the public of what rules state government is instituting to control the lives of the citizens and their

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businesses. He noted that, unfortunately, no formal procedure was set in place to review, from time to time, what rules are in place, whether they are still needed, and to allow later administrations to cull out those considered outdated, unfair, or contrary to public policy. Mr. Lahr stated he believes the present rule-making process began about 1973, and asked the committee to think back to what they were doing in 1973, indicating it seems like a long time ago. He noted that, possibly, none of us in this room were here, at that time, in the legislative area. Mr. Lahr stated Governor Tom Judge held office at that time, that 7 Senators and 7 House members served at the time the rule-making procedures were instituted, and that this is the 10th legislative session since the rules procedure was begun. He indicated that, in Montana, Governors change, legislators change, laws change, and even the constitution has changed, but that rules go on forever. Mr. Lahr asked the committee to please allow a review of the rules, and pass SB396 and SB397.

Testimony:

Ms. Hughes indicated she would vie with Mr. Mockler as representing one of the most highly regulated industries in this state, basically the nursing homes. She stated they deal with the executive branch agencies all the time, particularly Health, Family Services and SRS, and those agencies have a lot of rules, and a lot of rule making authority. She indicated they find, sometimes, the process used in the development and adoption of rules is not always everything that it should be, noting that, sometimes, people within the agencies have a vested interest in the rules, as well as pride of authorship. She stated a hearing is held, people testify about the rules, and what the effect will be on the operation of their facilities, and yet no changes are made by the agency, noting that it seems, in some instances, to be a foregone conclusion that whatever has been written is ultimately going to be on the books. Ms. Hughes stated this bill puts into law, and opens up for public scrutiny, a practice that is already in place. She noted she, on many occasions, visited former Governor Schwinden's office about things his agencies were proposing to do, adding that she would do that with any Governor in office because she thinks that is where the buck stops, and that you do sometimes have to go there to let the chief executive know what is going on in the agencies. Ms. Hughes stated this bill opens up the process, because the people using that procedure are those who are most knowledgeable about the political system, and are willing to talk to the Governor, and indicated she thinks that, if you establish on the books that this is a proper thing to do, that it is appro-

priate, and that the Governor does have authority to make some of these decisions, it will actually open up that process and that more citizens, and more people who are affected by the rules, will go to the chief executive with their concerns. Ms. Hughes indicated she thinks that is good for the state, and urged the committee to support the bill.

Testimony:

Ms. Mosher testified they support the previous testimony, and are very much in support of SB396 and SB397.

Testimony:

Mr. Langley indicated the mining industry is very heavily regulated in Montana, and stated the problems they have, as an industry, particularly in the areas of state environmental and tax policy, is not necessarily statutes, but the rules and regulations that have been promulgated to implement those statutes. He noted they have requested a couple of bills, in this session of the Legislature, to clarify the statutes, because they feel that, in several areas, particularly in the area of taxation, the administrators who have written the rules have gone far beyond the intent of the legislation passed by elected legislators.

Mr. Langley indicated they feel that a Commission, such as the one being proposed by Governor Stephens, would allay this problem to a certain extent. He stated that some rules not only go beyond the intent of the legislation but, in some cases, are contrary to the statutes. He reported that the Hard Rock Mining Impact Act, which was passed in 1981, requires large-scale mineral developers, who hire 75 or more people, to file extensive impact statements on the socio-economic impact they may have on a community, and requires they take measures to mitigate those impacts. He noted the statute, as it was passed in 1981, was 11 or 12 pages long. Mr. Langley indicated the outgrowth of that statute is a thick loose-leaf folder of rules and regulations, policies and guidelines. He stated that, in many cases, not only do these rules, regulations, policies, and guidelines implemented by the administrative branch go beyond the intent of the law, and are contrary, but they are also intimidating, particularly for new companies coming in to Montana. He stated they feel this is a step in the right direction, and is the kind of program they have advocated for a long time. Mr. Langley stated that, whether you are Republican or Democrat, whether you agree with Governor Stephens, or not, this legislation will allow the Governor to keep the campaign promises he made

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during the election. He added that he thinks the Governor should be given that leeway, that he should not be hamstrung, and should be allowed to keep his campaign promises by passing this legislation.

Testimony:

Mr. Tutwiler stated that the Montana Chamber supports SB397, and they are in general accord with the testimony already presented to the committee. He added that, as a state chamber, they represent the interests of businesses around Montana, and spend a considerable amount of time each month reviewing the proposed rule changes, noting they frequently find it necessary to engage the services of an attorney to work out problems that arise with various rule publications, even to understanding these rules. Mr. Tutwiler indicated they feel that SB397 would be a step in the right direction, and would provide help to the business community throughout the state. He reiterated that they support the bill, and urged the committee to also support SB397.

Testimony:

Mr. Allen stated he is appearing to support both bills, particularly SB397. He indicated that, having covered the legislative process in the state for the last 14 years, and having represented 2 of the major resource industries, it is very frustrating, at times, trying to figure out what is happening with the implementation and adoption of rules to implement a law passed the previous session. He stated he believes in trying to work with the agencies, and has tried to through the years, noting he thinks he has been successful in many cases. He indicated there have been times when people who do not have to run for election, and there is no accountability, have, in their own minds, a set of criteria that people should abide by in order to operate in the state, whether it has been agreed to by the elected officials, or not, and this presents a lot of difficulty. Mr. Allen indicated the Administrative Code Committee has been the only avenue in trying to make sure that agencies live up to the intent of the law in adopting rules. He stated he has appeared before the committee, on many occasions, trying to clarify that situation. He indicated that, years ago, a survey was conducted in several states, noting that Wyoming was the only one in this area that was surveyed, and stated that, even in Wyoming, is considered a pro-business state, more so than the image of Montana, they found that 55% of the rules which had been adopted strayed from the intent of the statutes. Mr. Allen stated he thinks this bill is good, that

there has been a lot of talk about checks and balances, and accountability, and he believes this will give that opportunity to a very important part of state government.

List of Testifying Opponents and What Group They Represent:

Kathy Irigon, State Auditor's Office

Eric Feaver, Montana Education Association

Eugene Fenderson, Montana Building and Construction Trades Union

Jim Jensen, Montana Environmental Information Center

Tim Baker, attorney, Montana Department of Public Service Regulation

Testimony:

Ms. Irigon testified that the State Auditor's office understands the requirements of SB397 were not intended to apply to other executive branch elected officials, or their department. She stated they have discussed the bill with the Governor's office, and have come up with some amendments that would make the bill do what the Governor's office had intended it to do. Ms. Irigon distributed copies of the amendment, a copy of which is attached as Exhibit 9, and explained the proposed amendment would exclude from application of the bill the offices of the attorney general, state auditor, secretary of state, and the superintendent of public instruction. Ms. Irigon stated they believe the amendments which have been proposed, so far, would not take those offices out of the application of the bill. She indicated the technical amendment is necessary to Section 2 of the bill to clarify the intent of the Governor's office, and would merely consist of adding the language, proposed in the amendment, to the middle of lines 23 and 25 on page 4.

Testimony:

Mr. Feaver testified they oppose SB397, indicating they feel SB397 reads very much like Executive Order 04-89, which the Governor issued a few weeks ago. He stated you should never put on the table what you think you already have, unless you believe that you do not already have that authority. He indicated it appears, by the introduction of SB397 into this Legislature, that the Governor feels he does not have the authority to do what he wants to do in Executive Order 04-89. Mr. Feaver stated that, if he does have that authority, he should not have introduced this bill, and he should have acted as if he had that authority, and continued thereon.

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He noted that, notwithstanding, they have some question about the purpose of the bill, indicating that, if the purpose of SB397 is simply to review and determine if rules adopted by state agencies, licensing boards, etc. are consistent with statute, or their constitutional authority, and the Governor gives advice to those boards, that seems to be okay. However, Mr. Feaver stated, if the purpose of SB397 is to empower the Governor to infringe upon the constitutional or statutory authority of various state boards, they feel SB397 is inappropriate, as is Executive Order 04-89, and is an intrusion by the Governor upon the rights, responsibilities and duties of other institutions within our state government. He added that, regardless, they feel the Governor's review must be subject to public comment, must be open to the same hearings process that the agencies developing rules undergo, and there must be the opportunity for the public to see all the documentation the Governor brings to bear to make his decision pertaining to those rules. Mr. Feaver stated that SB397, as well as the Executive Order, is an enlargement of government, an enlargement of administration of government, noting the cost to government will expand, and costs to those interest groups that have particular licensing boards or agencies with which they are concerned, will grow. He indicated they hope the committee will give a do not pass to SB397.

Testimony:

Mr. Fenderson testified that they oppose both SB396 and SB397, indicating he will combine his comments.

He stated that he comes before the committee a little surprised that the administration wants to expand the bureaucracy of the state, noting that he understood they wanted to cut down. Mr. Fenderson indicated that the systems they have worked with for many years, with the trade associations they deal with, and the licensing boards for blasters, electricians, plumbers, the health department, etc., have sometimes been frustrating, but added that, win or lose, they believe the system has worked. He noted the authority for the Governor to appoint his own department heads, and the constitutional break-up of the other elected officials, has worked over the years. He indicated they think the system should be allowed to continue as is, and that another level of bureaucracy is not needed in this state.

Testimony:

Mr. Jensen testified they are in opposition to SB396. He noted the committee has heard from the natural resource

extraction industries about how bad the rules and regulations are, under which they operate, but pointed out that the committee has not heard a single specific comment regarding which rule, which regulation, and how it affects the applicants.

Mr. Jensen indicated one thing about Montana's political process is that it is open, and members of the Legislature are close to the people, noting there is no question that this is important to the people of Montana. He stated the Legislature sets the policies, and the agencies are instructed by the Legislature to write rules to implement those policies. He stated, however, unelected people appointed by the Governor to a commission will step in between the legislators and their constituents, and the Legislature and the agencies, and make recommendations, possibly very extraordinary recommendations, to the Governor, which will have, in their view, potential, and the intent, to undermine legislation passed since 1972, and the constitutional guarantee for a clean and healthful environment, which is included in the new constitution.

Mr. Jensen stated they have heard much from the administration about the problems of the rules and regulations, and the red tape of industry, and yet they have never heard, even when they specifically asked, which rules. He asked to be told one rule that has stopped industry from developing in Montana; one that is unreasonable, noting that not one time has one rule been pointed out by either the administration, or industry, but yet this powerful commission is being created to come between the Legislature and the agencies, and to make recommendations, outside the political process. He stated that is a bad precedent, and they think the people in the state should be involved, either through elected officials, or through the ordinary rule-making process, through public hearings and public meetings, before any rules are changed.

Testimony:

Mr. Baker's written testimony is attached as Exhibit 11.

Questions From Committee Members:

Q. Senator Rapp-Svrcek indicated that, in Senator Meyer's opening statement, he said SB397 would allow the Governor to oversee what his department heads are doing, noting that, if SB165 passes, he will have power, not only over his department heads, but over the assistant department heads and division administrators. Senator Rapp-Svrcek asked Senator Meyer why the Governor does not have that

power of oversight now, indicating he is getting the sense that the Governor does not trust even the people he has appointed to head his departments.

- A. Senator Meyer responded that, as an example, last April, the Department of Highways established a new rule that any trailer house coming into Montana 10' wide, or wider, would have to have 5 cars in the front and in the back of it. He noted this would increase the cost of a trailer house probably by \$1,000 or \$1,200, indicating that, if that rule had been run through the Governor's office, they may have been able to eliminate one of the flag cars, which would result in the price of that trailer house being much cheaper for the young people in the State of Montana.
- Q. Senator Rapp-Svrcek indicated he is not sure he got the answer to his question, but will move on. He stated this bill would allow the Governor's office review of rules by any office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive branch of state government and, in those reviews, the Governor would be required to coordinate the rules, review the adequacy of the agency's rationale, insure that the review has complied with the review section, and also insure that the english language and grammar are correct. Senator Rapp-Svrcek asked Senator Meyer, if the Governor is doing all this, what else is he going to have time for.
- A. Senator Meyer responded he does not think it will take him that long to do this, noting the Governor has the people to do it. Senator Meyer indicated this bill has come up twice before, but never got introduced.

Chairman Farrell announced the hearing on SB397 as closed.

HEARING ON SB 396

Presentation and Opening Statement by Sponsor:

Senator Darryl Meyer indicated that SB396 is an extension of SB397, and will allow the Governor to look at the rules, and make some changes, noting there are possibly some rules that are outdated, outmoded, that they should be changed, and this will give the Governor's office a chance to clean them up.

List of Testifying Proponents and What Group they Represent:

Robert A. Ellerd, Governor's Office
Jim Mockler, Executive Director, Montana Coal Council
Rose Hughes, Montana Health Care Association
Roger Tippy, attorney, representing himself
Alec Hanson, Montana League of Cities and Towns

Testimony:

Mr. Ellerd indicated the proposed amendment by the Public Service Commission would be accepted, noting it was an oversight they were not included, and that it would also be accepted in this bill. He added the amendments the committee has covers the same situation in both bills. Mr. Ellerd stated that the Governor feels these need reviewing, and that the commission would not be large, and would not create a large expense. He referred to the question regarding whether the Governor will have enough time, and stated he is sure the Governor will find the time to do what is necessary, what the bill demands, and that he supports this bill. He indicated they are not looking for a very large increase, that there are people on staff that can do the work regarding grammar, etc., adding that there will probably be a small fiscal note. He asked the committee for their support on the bill on behalf of the Governor's office.

Testimony:

Mr. Mockler testified he is convinced that SB396 could possibly save the state a lot of money. He stated that anyone wishing to know which rules have gone into effect, and are in contention, only has to go to the Department of Revenue, the Department of State Lands, or any other department, and see how many law suits have been filed over those rules. He indicated that, of the ones he is familiar with, the state's track record has not been good at winning those. He noted that the Legislature passes a piece of legislation, turns it over with the intent, to the executive branch and, with that, has lost control. He pointed out that the Administrative Code Committee, although it still meets, has absolutely no power because the judge said, once it leaves the hands of the Legislature, and is in the executive branch, you can not interfere with those powers. Mr. Mockler stated he thinks this bill will allow the Governor's office to appoint a commission to hear problems and, perhaps, be able to resolve those problems before going to court. He indicated they have been to court, and have won, but it is a long, expensive process, both for the state and for the taxpayer, or the

regulated entity. He noted they have an on-going program to review the rules of the Department of State Lands, and he does not have any great problem over that, but he thinks anyone who does should have the option of appearing before a commission to explain their conflict, and let the commission clean them up, rather than the court. Mr. Mockler stated he thinks it is a good plan, and one the committee should support.

Testimony:

Ms. Hughes testified they support SB396, and that she sees this bill as one that might clean up what has become a cumbersome set of rules in this state. She indicated that, in the health care field that she is familiar with, the Department of Health, SRS and Family Services, and sometimes the Department of Institutions, have rules that sometimes overlap and, in some cases, conflict with each other. Ms. Hughes stated this is very difficult for those who are on the regulated side to know what is expected of them. She indicated she sees the process being asked for here as one in which they will take a look at what is on the books, try to make more sense of it, and try to put it together in a fashion that the people who are regulated know what is expected of them, noting she sees this as a very good move.

Ms. Hughes stated that, not too many years ago, the Legislature went through the same kind of process with the Montana statutes, and there was a total review and recodification of the laws on the books. She noted there was a lot of legislation, during that time, to repeal laws which were inconsistent, no longer appropriate, or conflicted with other laws on the books. She added that this has been done with the statutes but, to her knowledge, has not been done with the rules, and she thinks it is probably time that it be done.

Testimony:

Mr. Tippy reported that Mr. Ellerd asked him to look these bills over, and share any comments or reactions he might have. He noted he assumes it was not on behalf of independent bankers, beer wholesalers, or anyone else, but that it was because of his background, over the last 16 years, in the administrative procedure act. Mr. Tippy gave a brief history of his work with the state administrative procedure act, and noted he took Mr. Ellerd's request to review these bills in that light.

Mr. Tippy stated that SB396 looks at existing rules, and indicated the Administrative Code Committee has, from time to

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time, endeavored to review existing rules. He noted that, in the 1975-76 interim, they took a small bureau or division that did not have a lot rules, went through them, examined them for authority, and for consistency with the statute. He stated that process identified, with Workers Comp, SRS, and the Board of Realty Regulations, a few rules that were suspect, and led to the agency taking action to clean them up. Mr. Tippy indicated the Administrative Code Committee has the ability, and the statutory obligation, to continue to be involved in this process, noting he does not see that in SB396, and would encourage the sponsors to draft an amendment to say that this would be in consultation with the Administrative Code Committee. He added that it would put in a more bipartisan aspect to this process, not that it should be partisan in any sense now.

As an example, noting this will pertain to SB397 and asked the committee's indulgence, Mr. Tippy reported that, after MAPA went on the books, the Board of Plumbers came out with a rule that no one could use PVC pipe in do-it-yourself work fixing their own plumbing. He reported there was a fire storm of protest, but the Board of Plumbers stuck fast by their rule. He indicated that, even though the Administrative Code Committee held a hearing with the Board of Plumbers, Governor Judge finally wrote the Board saying they should set that rule aside, that it does not appear to be in the public interest to promulgate that rule. Mr. Tippy noted that, whether or not you need to institutionalize that process, the way SB397 suggests, and the way federal government does with the office of management and budget, and larger states do, you have to recognize that no legislative committee can do anything more than jaw-bone. He noted that, if elected officials can take the political wishes of the people, and other factors, into account in dealing with what the bureaucracy wants in a rule, it must be through the Governor's office; the Governor's office hires all of the agencies that should be under this bill, and this is probably where the responsibility should be vested.

Mr. Tippy asked if anyone had commented, in earlier testimony, on the 6-month limit on rule-making. He indicated that, once it is put in the administration register, the agency must go to final promulgation within 6 months of that date, adding that SB397 would create a time factor that would carry the agency beyond that 6 months, and they would have to publish a new notice to get it in. He stated the bill probably needs an amendment which would hold that 6-month period so that the Governor's office review, if it took another 90 days, would still allow the Secretary of State to eventually publish the

rule. He indicated the time it takes to read an administrative register, every two weeks, or twice a month, can vary from 30 minutes to several hours, and is something he has to do, noting the bill requires someone in the Governor's office to do that. He stated he does not see it as an FTE, in terms of work load, but that it depends on how thorough they wish to be in following-up phone calls to affected parties, going out and soliciting feed-back, and indicated it could be a full-time job.

Testimony:

Mr. Hanson stated his support for this bill is compelled by an experience they had last year with the Department of Revenue over the implementation of HB436. He indicated HB436 set up a system to do sales assessment ratio studies, to annually re-evaluate property in the residential/commercial categories, based on a sampling, and conducted by the Department of Revenue. He stated that every step of that process, every decision that was made, went against the cities and towns, schools and counties of this state. He indicated they felt the process was unfair, that the rules were unreasonable, and that they had very little opportunity to comment on the rules. Mr. Hanson corrected himself, stating they had every opportunity to comment, but had very little opportunity to affect the decision that was ultimately made on the rules.

Mr. Hanson indicated that, under HB436, the Department was supposed to develop rules for the implementation of a study to determine the value of residential and commercial property in 13 districts across the state. He stated that, after the rules were developed, they were supposed to be heard, changed, if possible, based on public comment, and then the study was to be conducted. He reported the Department did it backwards; they conducted the study, wrote the rules, wrapping the rules around the study, and then held the public hearing. He indicated they brought 10 or 15 people to Helena to testify on the rules, they pointed out some of the problems with the study and some of the problems with rules, there was no one at the hearing that supported the Department's implementation of the rules and the study but, after the hearing, they went back to their offices, and did not change a comma, paragraph, or other punctuation mark, in their entire study.

Mr. Hanson stated that he thinks the way this study came out was totally inadequate and, if they can do this to the cities and the counties, they can do it to people. He noted it was a twisted interpretation of the constitution, and some of the things that came out of the study were totally unacceptable.

He stated that, as an example of one of the deficiencies they identified in the implementation of HB436, the state constitution says that property has to be equalized, and noted that HB436 said that, if the value in one of the districts decreased by less than 10%, the Department was not required to adjust the taxable valuation in that district for the purposes of levying mils. He reported the Department said that particular provision of the law violated the equalization provision of the constitution. He noted that, in the case of the City of Billings, their value, based on the study, declined 7% and, under the law, they should not have been affected but, under the rules adopted by the Department, they were forced to reduce their taxable value 7%, which cost the City of Billings a considerable amount of tax revenue. He noted that, at the same time, the Department said those areas in which the value increased were controlled by SB71, which implemented the property tax freeze. Mr. Hanson indicated he asked the Department, and is asking this committee, how does the constitution apply in those areas where property value decreased, and why doesn't the same constitution apply with regard to equalization in those areas where the property value increased. He indicated this is an example of the twisted interpretation of this law, and he thinks the people were denied access to the government process, they had no opportunity whatsoever to affect any change in the proposed rules, and the only alternative they had was district court. He noted that, when a public agency abuses the rule-making authority, the only place they can go for redress is district court, and there has to be somewhere else to go. He stated he thinks the Governor's office is an appropriate place and, for that reason, he supports this bill.

List of Testifying Opponents and What Group They Represent:

Mike Cooney, Secretary of State
Eric Feaver, Montana Education Association
Kathy Irigon, State Auditor's Office

Testimony:

Mr. Cooney stated he is here to testify in opposition to SB396. He indicated he saw the amendments that the Governor's office came forward with and that some of his testimony, although written in such a way as to be in opposition to the bill, will demonstrate why the committee should seriously look at the amendments, adding he hopes the committee will support them.

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Mr. Cooney indicated that, during his campaign for office, he stated there were many administrative rules which are not totally understandable and he pledged that, if elected, he would work with the Governor and his agencies to try and improve the clarity of adopted rules. He stated that he believed then, and believes now, that rules should be written in plain English, and not unintelligible jargon. Mr. Cooney stated that one of his first acts as Secretary of State was to write to the Governor, expressing his desire to work with him in making the rules more understandable.

Mr. Cooney stated that SB396 would allow the Governor to create and fund a commission to review and approve all rules and regulations promulgated by state government. He noted the committee has heard testimony today that this authority would allow the Governor to rid the state of unnecessary bureaucratic red tape and, while he applauds this goal, he remains unconvinced that the addition of another step in the rule-making process will, due to its very existence, create better rules and regulations.

Mr. Cooney stated he rises in opposition to SB396 for several reasons. He noted the Montana Constitution clearly outlines the duties of the individual constitutional officers of state government, and that his duty as Secretary of State is to maintain official records of the executive branch and the acts of the Legislature, as provided by law. He indicated the law provides that, among other duties, he serve as the state's chief election officer, adding that his office handles corporate and uniform commercial code filings, and he is responsible for the publication of the Montana Administrative Register and the Administrative Rules of Montana. He stated that SB396 would have him perform certain of his duties only with the consent of the Governor, in particular, any rule promulgated by this office would be subject to approval of the Governor. He indicated he publishes rules only in conformity with his duties to the people of Montana under the laws of this state and, if SB396 passes in its current form, it will give the Governor the authority to tell him how he is to perform his duties. He noted that the people, not the Governor, have elected him Secretary of State to carry out the constitutional and statutory obligations of that office. He stated the people of this state shall judge his performance and, if they are not happy with his actions, they will vote him out of office.

Mr. Cooney noted that, in addition to this major constitutional defect, the bill suffers other problems. He indicated it is still unclear to him if it is the intent of this legisla-

tion to replace the existing rule-making structure, as described by law. He stated that, currently, each of the Governor's agencies must designate one person who is responsible for rules, and each agency must make a biennial review of its rules to determine what changes must be made, and that the Legislature determines the fiscal impact of each piece of legislation, and decides accordingly. Mr. Cooney stated the rules are an outgrowth of the legislation, and are reviewed by the Legislative Council to determine their conformity with the statutes. He noted the Secretary of State reviews the rules for technical compliance with format, style, and arrangement for publication, adding the Secretary of State and the Administrative Code Committee may include such editorial notes, cross-references, and other matters, as they deem necessary. Mr. Cooney stated he is not about to try and lead this committee to believe that they, in state government, are doing all they can in the area of rules and regulations, noting there are improvements that need to be made. He pointed out that, however, there is also a frame-work currently in place, SB396 would duplicate, in the Governor's office to perform this function. He noted that, if the Governor feels there is room for improvement in this area, to improve the functionality of the existing frame-work, he is ready and willing to work with him in this regard. He stated it appears that the Governor has the proper tools for review of state rules at his disposal, that the directors of state agencies work at his pleasure, and he can certainly instruct his employees how to conduct the business of the executive. He stated it would be unfortunate if more money were spent on yet another bureaucratic commission, which may serve only to add another step in the rule-making process.

Mr. Cooney stated that, in addition, SB396 appears to limit the impact of public involvement in the rule-making process. He indicated that, under the Montana Administrative Procedures Act, public participation is encouraged, and noted that, after publication of a proposed rule change, public comments are sought in order to perfect the proposal prior to publication of the adopted rule. He indicated the intent is clearly to include public comments and concerns in the final rule, however, SB396 would allow the Governor to review and edit any rule, after the public comment period has expired. He stated this is not good government, and we must encourage public comment on the rules that affect them. He asked the committee to remember that rules and regulations have the same effect as law and, to circumvent the process which provides for public input, would, in his opinion, be a serious mistake.

Mr. Cooney stated he was not asked to submit a fiscal note on this legislation, but indicated the potential fiscal impact to his office, he believes, is cogent to a thorough understanding of this bill. He noted that SB396 does not exist in a vacuum and if, subsequent to review of existing rules, the Governor sees fit to change any or all of them, these changes will need to be published by the secretary of state's office. He indicated the publication of proposed changes costs money, that each additional page of the Montana Administrative Register is published at a raw printing cost to this office of \$16, per page, and noted that any editing of existing state rules and regulations may require the appropriation of more money to cover the cost, and personnel costs, associated with this act.

Mr. Cooney stated the Administrative Rules of Montana currently comprise approximately 11,000 pages of rules and regulations. He cited the example that, assuming the Governor's commission recommends changing 10% of the existing rules and regulations, just the printing costs associated with this action would be in excess of \$30,000, indicating the level of this financial commitment is clearly in the hands of the Governor, and it is his office that will determine the scope of the change, and thus, the level of financial commitment. Mr. Cooney stated he wants to be clear on this point: If it is the will of the Governor, and the Legislature, to undertake this task, he is equal to the challenge, but noted, however, it is his responsibility to apprise the committee of any potential fiscal impact which may affect the state budget. He indicated that, for these reasons, he would hope that the committee recommends that this do not pass. He stated he remains committed to work with the Governor to accomplish the worthwhile goal of improving the rules that affect all of us, but that SB396, in its current form, is a bad bill, and should not pass.

Testimony:

Mr. Feaver stated he supports the Secretary of State's comments, entirely, and added, regarding Mr. Hanson's reference to HB436, rule making did, in fact, impact negatively on school districts in the state, but indicated the rules that implemented HB436 were the decision of then Governor Schwinden's Department of Revenue. He added that, in fact, those rules were very consistent with what Governor Schwinden said was his personal interpretation of Initiative 105. Mr. Feaver stated he would doubt very seriously, even if SB396 were in effect, or SB397 were adopted, that there would have been any appeal to the Governor which would have changed the

implementation of rules affecting HB436, noting he would seriously question whether an appointed official of the Governor, adopting rules consistent with the Governor's articulation of his interests, or his interpretation of Initiative 105, would have offered relief to those persons damaged by the rule-making process surrounding HB436. He noted he does not see SB396 or SB397 correcting that circumstances, stating we are talking about people and agencies that work directly for the Governor.

Mr. Feaver stated he is glad there will be a fiscal note because, without it, it leaves one open to speculate as to how large the commission will be; 3, 5, 15? He indicated one would question what the qualifications of the commission might be; farmers, teachers, lawyers, contributors to the political fortunes of various candidates? He further indicated one would wonder about the notion of term; the term is not specified and, in fact, the Governor can designate the term and, later on, on page 2, we discover that he can remove the commissioners, noting that, apparently, the term is whatever the Governor says it is, but he can modify that term at his pleasure. Regarding salary and expenses, Mr. Feaver indicated the salary could be anything, noting that, if the Legislature were to adopt this bill, there is an open invitation for the Governor to establish whatever salary he sees fit. He added the Governor can establish his own rules of order for the proceedings of that commission, and questioned if there was any independency to this, at all, stating that very authority perhaps already exists with the Governor, as has already been articulated, and the commission seems totally unnecessary.

Mr. Feaver directed the committee's attention to page 2. He pointed out, on line 13, regarding the authority, powers or duties of the commission, that the commission would determine whether each rule is necessary, and asked, based on what? He stated it is a wholly subjective notion, whether the rule is necessary. He referred to line 16, which states "review the adequacy of the agency's rationale", and indicated one would have to get into the minds of those persons who sit on a committee, board, or agency, to review the rationale. He indicated there is, of course, legislative intent, as suggested on line 23, page 2, and it has already been articulated that it does seem appropriate for the administration to look at legislative intent. Mr. Feaver referred to page 3, indicating that, in subsection (4) of Section 1, the Governor may, in writing, order an executive branch agency to amend or repeal rules, or adopt new rules, as specified by the Governor, and indicated this bill seems to suggest that the Governor, by himself, may become the independent agency, and

SENATE COMMITTEE ON STATE ADMINISTRATION

February 15, 1989

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can impose rules, amend rules, delete rules, without any process, whatsoever, that may impact upon those parties who are concerned with those rules. He added the Governor can do that unilaterally within a very short period of time, that there is no apparent hearings process, and no public input.

Mr. Feaver went on to point out that, most remarkably of all, new Section 3, on page 3, stated "This act terminates 4 years after the effective date of this act." He indicated one would question why there is any termination date in this bill, and asked, if the Governor has the power already, why SB396, why SB397? He further asked, if the Governor does not have the power, and gets this power by these 2 bills, why sunset? Mr. Feaver also asked, if this is such a good idea now, why is it not a good idea forever, at least so far as the Legislature ever sees anything as forever?

Mr. Feaver stated SB396 is unnecessary, and he hopes the committee will give it a do not pass.

Testimony:

Ms. Irigon reported that, in talking with personnel from the Governor's office, they were advised that intent of the Governor's office in this bill was not to have it apply to the offices administered by elected officials. She pointed out that, however, on page 3, line 2, it states "The Governor may, in writing, order an executive branch agency, as defined in (statute), to . . ." do this, that and the other. She noted that, in looking at the definition contained on line 3, page 3 of that statute, it does encompass all state agencies, including those state agencies administered by elected officials. Ms. Irigon stated that, to have the bill reflect what the Governor's office intended in drafting it, they have some amendments which would make the bill apply only to the departments that are directly under the Governor's office, and would exclude from application of the bill, the attorney general, state auditor, secretary of state, and superintendent of public instruction. Ms. Irigon distributed copies of the amendments to the committee, a copy of which is attached as Exhibit 13. She indicated that neither these proposed amendments to SB396, nor the proposed amendments to SB397, offered earlier, include the public service commission, noting that is an oversight they carried from the references to elected officials in SB397, which omitted the public service commission, and that they did not intentionally mean to have the bill apply to the public service commission, and not any other elected officials.

Questions From Committee Members:

Vice Chairman Hofman advised the committee that any questions, which would have been directed to Senator Meyer, should be directed to Mr. Ellerd.

Q. Senator Rasmussen asked if the Governor has considered having his department heads review the rules, as one option.

A. Mr. Ellerd responded that he would say the Governor would certainly follow that procedure, if that would help to promulgate these rules and regulations.

Q. Senator Rasmussen asked if Mr. Ellerd thought that would take care of the problem.

A. Mr. Ellerd responded that it might help.

Vice Chairman announced the hearing on SB396 as closed.

HEARING ON SB 395

Presentation and Opening Statement by Sponsor:

Senator Paul Boylan indicated that SB395 has to do with the student body at the U of M and MSU, and that they want to expand this into other units of the university.

List of Testifying Proponents and What Group they Represent:

Mike Craig, Associated Students of the University of Montana
Tom Upton, President, Associated Students of Montana State
University

Testimony:

Mr. Craig reported they have proposed amendments to the bill, indicating they do not change the substance of the bill, or the intent. He indicated that, where the word "government" appears in the bill, they would like to substitute "associations". Mr. Craig distributed copies of the proposed amendments to the committee members, a copy of which is attached as Exhibit 15. He noted that, as Senator Boylan stated, they would also like to include the student associations at the 4 colleges, along with the 2 universities, in this bill.

SENATE COMMITTEE ON STATE ADMINISTRATION

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Mr. Craig reported that the student associations being restricted to state procurement laws often results in purchases of supplies or services at prices over those for comparable purchases in the private sector. He stated that SB395 would amend those laws to give the student associations the option, and he stressed option, of making purchases of supplies or services off campus. He indicated that having the ability to shop around would allow student groups to spend association money more efficiently, noting that, if price comparisons result in a purchase being less expensive on campus, the student groups could retain that option. He stated that both student governments at MSU and the U of M would consider amendments to their respective fiscal policies that would restrict out-of-state purchases if, in fact, those purchases can be made either on campus or in Montana, and noted they have no intention of taking their business out of state, that they do not want that to happen, at all. Mr. Craig distributed copies of the proposed amendments, a copy of which is attached as Exhibit 16.

Mr. Craig reported that ASUM will be asked to adopt a bidding policy where purchases in excess of \$300 will be accompanied with at least 3 written quotes, or will be done through central purchasing on campus, noting this is outlined in the second paragraph of the handout just distributed. He stated this would safeguard possible abuses of student funds, and is similar to the University of Montana's central purchasing policy number 120. He noted that he has backup in which they did some price comparisons of the University of Montana office supplies from Delaney's Office Products and Wyckman's, in Missoula. Mr. Craig distributed copies of the price comparisons, a copy of which is attached as Exhibit 17, and pointed out that, in 6 cases, both of the off-campus comparisons are better prices. He noted that, in 3 of the cases, at least one price was better off-campus, adding that, in 4 cases, there are better prices on-campus. He indicated they would like to retain that option. He then pointed out that, at the bottom, there is a quick comparison of instructional material services, noting they are currently confined to purchasing their services for video, or any type of visual aids that the student association groups would like to use in their activities. He noted that the prices speak for themselves, indicating they think this is a good, common sense bill, and an efficient use of student funds, which are state funds.

SENATE COMMITTEE ON STATE ADMINISTRATION

February 15, 1989

Page 22 of 24

Testimony:

Mr. Upton distributed a copy of their brochure, a copy of which is attached as Exhibit 19. He stated they are in favor of SB395.

Mr. Upton testified they have 4 major reasons for supporting and backing this bill, the first of which is the increase in administrative time that this has caused, since both ASMU and the University of Montana student governments have been forced to use the state purchasing system. He stated that ASMU has consistently proven itself to be fiscally responsible, that they have been audited by the state, and have brought in outside auditors, private accounting firms, to look over various committees. He indicated that the administrative time takes away from the purpose of the student association at the university level, noting that their purpose, other than serving and representing the students in bodies such as this, is to learn, to develop leadership skills, and learn how to better manage resources. He noted that, possibly, several of the committee's colleagues are former student body officers at either ASUM or ASMSU.

Mr. Upton stated that, because of the state purchasing system, they find themselves spending more and more time trying to understand the complexities of the state system, and spending less time actually doing what they were elected to do, which makes it extremely hard for them to accomplish as much as they would like to. He indicated the second reason is that Bozeman, Montana is really Montana State University, that Bozeman is a small community without MSU, and that ASMSU has, in the last 2 years, spent a lot of time trying to develop closer ties with the downtown Bozeman business community. He noted they have been fairly successful, and this bill will help them become more successful, adding they want to keep their money in Bozeman, and in Montana. Mr. Upton distributed copies of a purchase order that went through state purchasing for one of their largest committees, a copy of which is attached as Exhibit 20. He noted they allocate approximately \$130,000 a year to this committee. Mr. Upton indicated the state purchase order was submitted in September, that the order was for 2,000 bars of soap, and they asked for the lowest bid on 2,000 bars of soap to be used in their P.E. complex. He pointed out that, on February 13, they finally got something back from a New York firm, which said they could supply soap to their Intramural Department for \$.62 per bar. Mr. Upton reported they called Safeway, in downtown Bozeman, who could supply it for \$.51 per bar, noting they also called Albertson's and, in no case, was anything more expensive than

what had been bid out of state, in New York. He indicated this is one small example of what the state purchasing system has done to them, and they would like to keep their money in the state, and in Bozeman.

He stated this will help them save student funds, indicating that ASMSU is rather unique, that they do not fund any groups or clubs, and are like a mini-state government. He noted they fund entirely their own agencies, and have their own problems but, for the most part, their money directly benefits all student programs. He indicated a lot of their programs, because of their unique nature, are not designed for state purchasing, citing their auto repair shop as an example. He noted they have a shop where students, for \$2 per hour, can bring in their car or truck, and do repairs under professional supervision, from taking out an engine, to changing the oil. He noted there is no other program like that in the state and, when the director of the auto repair shop has to go through state purchasing, often times, students are asked to wait 2 to 3 months to get a necessary piece of equipment, especially an engine block, which costs over \$300. He stated that not only seriously hurts their business, but it affects their ability to serve the students who pay their salaries.

Mr. Upton indicated ASUM has been asked to develop some internal controls to insure this will not lead to irresponsible use of state money, and they already have those controls in place at ASMSU, for the most part. He noted all of their money goes back through the business office, they also have the advice of their internal auditor, work closely with the administration, and watch very closely the expenditure of their money, since it is state money, assuring the committee there would be no abuses.

List of Testifying Opponents and What Group They Represent:

None.

Questions from the Committee:

None.

Closing by Sponsor:

Senator Boylan stated this is a good group to work with, and he is glad to see them cutting down the expense of going to school. He noted that, with the tuition increase, whatever can be saved in getting a higher education, he thinks will very helpful for them.

ADJOURNMENT

Adjournment At: 11:30 a.m.


WILLIAM E. FARRELL, Chairman

WEF/mhu
SB395.215

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: February 15, 1989

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

EXHIBIT NO. 1

DATE 2/15/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB 396, SB 397

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:

DATE:

Jim Mockler 2/15/89

Address:

2301 Cabrial Dr

Phone:

442-6223

Representing whom?

Mont. Coal Council

Appearing on which proposal?

SB 396 - SB 397

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 2

DATE 2/15/89

BILL NO. SB 396 AND SB 397

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: Robert A. Callard

DATE: 2-17-89

Address: Governor's Office

Phone: _____

Representing whom? Governor's Office

Appearing on which proposal? 396-397

Do you: SUPPORT? AMEND? _____ OPPOSE? _____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 2/15/89

BILL NO. SB 396

SENATE BILL 396
Proposed Amendment

1. Page 1, line 17.
Following: "Montana"
Insert: "As promulgated by agencies in the Executive Branch as
defined in 2-15-102(2), MCA"

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/15/89

BILL NO. SB 397

SENATE BILL 397
Proposed Amendment

1. Page 1, line 17.
Following: "Montana"
Insert: "As promulgated by agencies in the Executive Branch as
defined in 2-15-102(2), MCA"

EXHIBIT NO. 5

DATE 2/15/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB396, SB397

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:

JOHN LAHR

DATE:

2-15-89

Address:

MPC - BUTTE, MT 59701

Phone:

723-5421

Representing whom?

MPC

Appearing on which proposal?

SB 396-397

Do you:

SUPPORT?

AMEND?

OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 6

DATE 2/15/89

BILL NO. SB396, SB397

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: Rev. Hughes

DATE: 2-15-89

Address: Helena MT

Phone: _____

Representing whom? mt. Health Care Assn

Appearing on which proposal? SB 396 & 397

Do you: SUPPORT? Yes AMEND? _____ OPPOSE? _____

Comments: J

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 7

DATE 2/15/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB 396, SB 397

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: Lowell Mosher DATE: 2-15-89

Address: P.O. Box 1679 - Helena, Mt

Phone: 442-3420

Representing whom? Mt. Grange, Farmers Union, Women Involved with Farm Economics, Mt. Cattle men's Assoc, Mt. Stockgrower Assoc., Mt. Cattle Feeders, Mt. Cattle Women, Mt. Dairymen's Assoc. Mt. Graingrowers, Mt. Assoc of State Grazing Districts

Appearing on which proposal? SB 396 SB 397

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 8

DATE 2/15/89

BILL NO. SB396, SB397

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: Jim Tutwiler

DATE: FEB 15, 1989

Address: MONTANA CHAMBER COMMERCE
PO 1760 HELENA MT

Phone: 59601

Representing whom?
MT CHAMBER COMMERCE

Appearing on which proposal?
SB 396 AND 397

Do you: SUPPORT? X AMEND? OPPOSE?

Comments:
MT CHAMBER OF COMMERCE
RECOMMENDS ~~THE~~ THE
COMMITTEE FAVORABLY CONSIDER
SB 396 & 397.

Amendment

Senate Bill 397
Submitted by the State Auditor's Office
February 15, 1989

1. Page 4, line 15.

Strike: "The"

Insert: "Except for the attorney general, state auditor,
secretary of state, or superintendent of public
instruction, the"

SENATE STATE ADMIN.

EXHIBIT NO. 10

DATE 2/15/89

BILL NO. SB 396, 397

WITNESS STATEMENT

STATE ADMINISTRATION COMMITTEE

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:

Eng. Fend...

DATE:

2-15-89

Address:

Box 702 Helen,

Phone:

442-1441

Representing whom?

MT State Bly Trade

Appearing on which proposal?

SB-396-397

Do you:

SUPPORT?

AMEND?

OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE COMMITTEE ON STATE ADMINISTRATION

FEBRUARY 15, 1989

RE: SB 396 and SB 397

My name is Tim Baker, and I am an attorney for the Montana Department of Public Service Regulation, Public Service Commission. Although the Commission has not taken a formal position on either SB 396 or SB 397, they have asked me to appear to correct what is apparently an oversight. SB 397 provides for an exclusion from its application for elected state officials such as the Attorney General, State Auditor, Secretary of State, and the Superintendent of Public Instruction. Although SB 396 contains no such exclusion on its face, I have been told that the bill is also not intended to apply to such elected state officials. This of course is consistent with the recent Executive Order of the Governor, dated January 31, 1989, which addressed the same topic as these bills, and also excluded elected state officials, including the Public Service Commission.

As you know, the Public Service Commission is comprised of five members, each elected from separate districts. The topics addressed by rulemaking proceedings before the Commission include very technical and specialized subjects. Often, the interpretation and application of any Commission rules depends upon specific terms of art found in those rules. Of course, all rulemaking proceedings before the Commission are governed by the strict requirements found in the Administrative Procedure Act. In addition to judicial review, the final product is also sub-

SENATE STATE ADMIN.

EXHIBIT NO. 11

DATE 2/15/89

BILL NO. SB 396, SB 397 pg 2

ject to the close scrutiny of the Legislative Council and the Administrative Code Committee. Consistent with the treatment accorded to other elected state officials, the Public Service Commission should also be excluded from the application of both SB 396 and SB 397. For SB 397, go to page one, lines 24 and 25 -- after Secretary of State -- and the comma following, insert Department of Public Service Regulation. For SB 396, the Department of Public Service Regulation should be included in whatever exclusionary language is finally adopted to clarify this bill. These amendments have been discussed with both the primary sponsors of these bills and the Governor's office.

Thank you.

EXHIBIT NO. 12

DATE 2/15/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB 396, SB 397

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: Tim Baker DATE: 2/15/89

Address: 2707 Prospect Ave. HUNG

Phone: 444-6178

Representing whom?
MT PSC

Appearing on which proposal?
SB 396 SB 397

Do you: SUPPORT? AMEND? OPPOSE?

Comments:
Witness statement - see Exhibit #11

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Amendment

Senate Bill 396
Submitted by the State Auditor's Office
February 15, 1989

1. Page 1, line 14.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

2. Page 2, line 3.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

3. Page 2, line 24.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

4. Page 3, line 2.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

5. Page 3.

Following: line 12

Insert: -[This act] does apply to the attorney general, state auditor, secretary of state, or superintendent of public instruction."

(5)

EXHIBIT NO. 14

DATE 2/15/89

BILL NO. SB395

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: Mike Craig DATE: 2-15-89

Address: MISSOULA

Phone: 243-2451 (MSLA) 443-1922 (Helen)

Representing whom?
ASSOCIATED STUDENTS OF UNIV. OF MT.

Appearing on which proposal?
SB 395

Do you: SUPPORT? AMEND? OPPOSE?

Comments:
prepared statements w/ sec.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 15

DATE 2/15/89

BILL NO. SB395

Amendments to Senate Bill 395:

Page 1, Line 5: strike "GOVERNMENTS", insert "ASSOCIATIONS".

Page 2, line 12: strike "governments", insert "associations".

Page 3, line 4: strike "governments", insert "associations".

Page 3, line 6: strike "governments", insert "associations".

SENATE STATE ADMIN.

EXHIBIT NO. 16

DATE 2/15/89

BILL NO. 56395

Proposed amendments to the ASUM Fiscal Policy:

New Section. "ASUM or any ASUM organization will not make any purchases of products or services which are made pursuant to 18-4-132 and 18-8-103, MCA, upon the enactment of Senate Bill 395 during the 51st Montana Legislative Assembly that would result in any out-of-state purchase that could otherwise occur in Montana, Missoula, or on the campus of the University of Montana."

New Section. "ASUM or any ASUM organization, when making a purchase for a product in excess of \$300, will submit to the ASUM Accountant a minimum of three (3) written price quotes before authorization of such purchase will occur, or will otherwise obtain purchasing authorization after having gone through the University of Montana bidding process as defined in the University of Montana Central Purchasing Policy #120."

	Univ of Mont <u>Office Supplies</u>	Delaney's Office <u>Products</u>	Wyckman's
1. Legal pad 8 1/2" x 11 3/4" x 4	\$2.20	\$3.32	\$1.59
2. Legal pad 5" x 8" x 2	\$0.58	\$1.48	\$0.88
3. Typing paper 8 1/2" x 11" x 200	\$1.65	\$1.65	\$1.65
4. 3M Post-it Note Pads x 2	\$1.70	\$0.79	\$1.02
5. Liquid Paper (brand name) 6 fluid oz.	\$1.69	\$0.85	\$1.09
6. 1" radius 3-ring binder	\$1.55	\$2.59	\$1.79
7. Manilla envelopes 10" x 13" x 10	\$1.30	\$1.00	\$1.00
8. American Pencils #2 1 box of 12	\$1.09	\$0.79	\$0.98
9. Bic Round Stick pens (medium) 1 box of 12	\$2.09	\$1.39	\$1.69
10. Gem paper clips 1 box of 100	\$0.25	\$0.15	\$0.36
11. Dennison file labels 1 box of 252	\$2.29	\$2.79	\$2.59
12. 3-M Scotch Magic Tape 1 roll 1/2" x 960"	\$1.09	\$1.46	\$2.00
13. High-light markers x 4	\$3.16	\$1.96	\$0.69
14. Desk-top calender (1989)	\$2.50	\$2.99	\$1.99

Instructional Material <u>Service - Univ. of MT</u>	*	National <u>Video</u>	Pick-A- <u>Flick</u>
VCR & TV rental -- \$21.60 (4 hours)	* VCR (24 hrs)	\$2.95	\$2.50
-- \$38.00 (12 hours)	* TV (24 hrs)	\$2.95	\$4.00
	*		
	*		

EXHIBIT NO. 18

DATE 2/15/89

BILL NO. SB395

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:

DATE:

Tom Upton

2-15-89

Address:

Room 281 - SUB

MSU

Phone:

Bozeman - Mt 59717 994-2933

Representing whom?

ASHSU

Appearing on which proposal?

SB 395

Do you:

SUPPORT? X AMEND? OPPOSE?

Comments:

Gives student associations more power to

keep students money in state.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 19

DATE 2/15/89

BILL NO. 26395



THE ASSOCIATED STUDENTS OF MONTANA STATE UNIVERSITY

WHAT IS ASMSU?

The Associated Students of Montana State University (ASMSU) is an organization composed of students, funded by students, and is concerned with providing students three areas of service: representation, education, and a number of various programs. Let's look at each area individually.

REPRESENTATION

Through the ASMSU President and the ASMSU Senate, student concerns and opinions are voiced to the MSU Administration and the Board of Regents. Both of these two organizations are most directly responsible for setting the policies and procedures followed by MSU.

EDUCATION

Everything that ASMSU provides to the student body is administered or governed by students. There are 20 positions, elected biannually, on the ASMSU Senate. In addition, there are around 200 positions for students on our various committees and boards that provide valuable experience to the individual and enhance their overall education.

SERVICE

ASMSU provides a wide range of services that are available to each and every activity fee paying student at MSU. An activity fee paying student is anyone carrying 7 or more credits. The remainder of this pamphlet is designed to give the reader an overall view of each and every one of those services.

THE ASMSU MEDIA

THE EXPONENT

The Exponent is the student newspaper of Montana State University. It is published twice weekly during the academic year and is distributed free of charge. The Exponent is written, edited and assembled by students and features news, sports entertainment, editorials, classified ads and, last but not least, The Far Side and Bloom County!

KGLT

KGLT is the student owned and operated public radio station of the Gallatin Valley broadcasting 24 hrs. per day. KGLT specializes in rock, classical, and jazz music. If you're tired of "the other stations," pick up a schedule of programs and tune your radio to stereo 92 FM for some of the best alternative programming anywhere!

THE MONTANAN

The Montanan is the campus yearbook of Montana State. The book is an excellent way of preserving the events and the many memories of the past. Call 994-3111 to order your yearbook.

PUBLIC RELATIONS

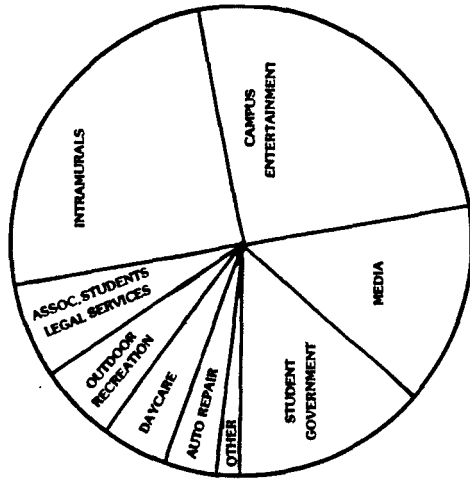
The ASMSU Public Relations Committee serves as a bridge of communication for the student members of ASMSU. This committee allows the student voice to be heard throughout the Bozeman community as well as the state of Montana. This committee is funded by the Business Support Program so pick up your free card today.

TYPESETTING

The ASMSU Typesetting Service is a student operated organization that provides all the typesetting services required by our other media. It is also open for use by students and faculty. Stop by their office, located along with all the other media, on the third floor of the Student Union Building for more details.

ASMSU ALLOCATIONS

ASMSU provides all of these programs along with a few others like Homecoming, Elections and Summer Programming through the activity fees that students pay every quarter. Each student carrying 7 or more credits pays a \$20.00 activity fee. Activity fees amount to approximately \$500,000. annually. The distribution of fees is as follows:



You are greatly encouraged to get involved with any of the programs listed in this pamphlet. For more information, please stop by the ASMSU office located next to the ASK-US Information Center in the SUB. Our hours are 8:00 a.m. - 5:00 p.m. Monday through Friday during the academic year.

ASMSU CAMPUS ENTERTAINMENT

ARTS & EXHIBITS

The Arts & Exhibits Committee showcases examples of the visual arts such as architectural renderings, graphics, sculpture, paintings and photographs of locally, regionally and nationally known artists as well as sponsoring lectures and performances of visiting artists. This committee runs the EXIT GALLERY which is located in the south in the side of the SUB on the second floor.

CONCERTS

The Concerts Committee brings popular regional, national acts and recording artists to Bozeman in both large Fieldhouse shows and smaller performances in the SUB Ballroom. In previous years, ASMSU Concerts committee has brought in top name acts like: 38 SPECIAL, MIKEY DREAD AND HIS REGGAE BAND, THE MONTANA BAND, jazz trumpeter FREDDIE HUBBARD, blues great ROBERT CRAY, QUEEN IDA and her BON TEMPS ZYDECO BAND, BRYAN ADAMS.

FILMS

The Films Committee provides movies and film series to the MSU campus at a very affordable cost. Most of the films are shown in 339 Leon Johnson Hall and in 125 Linfield Hall. In previous years we have brought you films such as 'Das Boot,' 'Blade Runner,' 'Gone With the Wind,' 'Brazil,' and 'Out of Africa.'

LECTURES

The Lectures Committee sponsors several nationally and regionally known speakers each year. We have brought you such people as Hunter S. Thompson, Dr. Ruth Westheimer, and James Watt.

LIVELY ARTS

Lively Arts provides an opportunity for MSU students to be exposed to a well balanced cultural as well as educational series of theater, musical forms (jazz, blues, classical, country, and contemporary). We bring you acts like BALLET WEST, NEW YORK CITY SWING BAND, MONTANA REPERTORY THEATRE. Season Tickets may be purchased.

TECHNICAL SERVICES

Tech Services provides lighting and sound equipment to ASMSU programs, university functions and anyone else who may need their equipment or skills. Tech Services, in addition to all the other Campus Entertainment Committees, is located across from the ASK-US desk in the SUB.

PROFESSIONAL PROGRAMS

AUTO REPAIR SHOP

The Auto Repair Shop, located across from the intramural fields on South 7th, provides students everything they may need to work on their own vehicles. Anything from lifts and stalls to tools and motor oil are available most hours of the day. Call 994-3342 for more information.

BIKE & SKI REPAIR SHOP

The Bike & Ski Repair Shop, like the Auto Repair Shop, provides students all the necessary tools and equipment to work on their own bikes and skis. A staff person is also available to offer advice and assistance on anything from waxing or pine tarring skis to repairing spokes. The Bike & Ski Repair Shop is located in the SOB Barn, behind North Hedges dorm. Call 994-3621.

ASMSU DAYCARE CENTER

The Daycare Center, located 1 block north of the SOB Barn, provides quality, safe, and affordable child care for students with small children. Only one parent must be a currently enrolled MSU student to take advantage of the daycare service. The center is staffed by a full-time professional staff and is available most of the year. We are excited about the new building housing our Daycare Center. Call 994-4370 for more information.

INTRAMURALS

By far the most used ASMSU program on campus, intramurals provides friendly competition for students in a number of different sporting events such as soccer, racquetball, volleyball, basketball and softball. This program is co-sponsored by ASMSU with Student Affairs & Services and is located in the PE Complex. Call 994-3911 for more information.

ASSOCIATED STUDENTS LEGAL SERVICES

ASMSU employs a full-time attorney for student use in advice on legal questions and representation in a number of areas. Legal Services are located in the ASMSU office in the Student Union Building. Call 994-2933 for more details.

OUTDOOR RECREATION CENTER

The ASMSU Outdoor Recreational Center, located in the SOB Barn, offers the MSU student an excellent opportunity to experience the great outdoors. Both equipment and excursions are available throughout the year from the Outdoor Recreation Center. Call 994-3621 for more information.

STUDENT SECURITY

Student Security provides added security for a variety of events on campus including athletic events as well as activities sponsored by Campus Entertainment such as concerts and lectures.

BOBCAT TRANSIT SYSTEM

The BTS provides a bus service free of charge to all activity fee paying students. The BTS operates three commuter routes in the morning and the evening. A shuttle bus operates during the day between campus and town.

OTHER SERVICES

The following services are offered through the ASMSU office in the Student Union Building:

TUTORIAL SERVICES

The ASMSU Tutorial Committee coordinates students who need help in classes with other students who are fully qualified to tutor. ASMSU splits the cost with the person being tutored.

RENTAL HOUSING BOARD

ASMSU lists a great number of houses, apartments, rooms and mobile homes for rent in the Gallatin Valley. Stop by the ASMSU office to have a look or if you have a rental item to list.

NOTARY PUBLIC

This service is available free of charge to all activity fee paying students.

TYPING REFERRAL

ASMSU keeps a list of available typists in the Bozeman area.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: February 15, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Senthuvelu	MT Motor Carriers	SB 394 SB 397	X	
TERRY WITCOMB		396		+
BRIAN HARLIN	ASMSU	395	X	
Jim Upson	ASMSU	395	X	
Brett Linneweber	ASMSU	395	X	
Mike Craig	Assoc. Students of Univ of MT	395	X	
Jim Tutwiler	MT CHAMBER COM	396-397	X	
Cheryl Munk	College Coalition	395	X	
Paul Alford	Student Officer	396-397	X	
Bruce Smiley	MSU	395	X	
Don Mitchell	Dept. of Livestock	396-397		
ROSE HUGHES	MT Assoc. Counties	396/397	X	
John Lahr	MPC	396-397	X	
Gene Phillips	PPSL	396/397	X	
GENE PIGEON	MDU Resources	396/397	X	
Greg Fend	MT St. Bly Trade	396/397		X
Carol Mosher	AG Org.	396-397	X	
DEBORAH SUTHERLAND	MT LIBRARY ASSN	396		
Jim Mocker	MT Gov Council	397	✓	
Stan Frank	ASMSU	395	X	
TIM BAKER	PSC	396, 397		over

