

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairperson Eleanor Vaughn, on February 8, 1991, at 10 A.M. in room 331.

ROLL CALL

Members Present:

Eleanor Vaughn, Chairman (D)
Bob Pipinich, Vice Chairman (D)
John Jr. Anderson (R)
Chet Blaylock (D)
James Burnett (R)
Bill Farrell (R)
Bob Hockett (D)
Jack Rea (D)

Members Excused: Senators Harry Fritz and Bernie Swift

Staff Present: David Niss (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 195

Presentation and Opening Statement by Sponsor:

Representative Tom Kilpatrick, House District 85, Laurel, stated House Bill 195 is an act requiring certain election materials to include a candidate's party affiliation or symbol on campaign materials. This is a right to know issue. When a candidate files to run for office with a political party, he announces, his qualifications, background, education, age, family, job and his party philosophy. Each party spends much time building a party platform and a candidate says he generally believes in that platform. The state legislature is generally organized along the lines of party affiliations being recognized when deciding leadership, committee chairs, etc.

Proponents' Testimony:

None

Opponents' Testimony:

Brad Molnar rose in opposition to House Bill 195 and read testimony into the record. (Exhibit 1)

Questions From Committee Members:

A lengthy discussion regarding party affiliation and philosophy ensued.

Senator Blaylock asked Representative Kilpatrick about Representative Nelson's bill regarding the "bug of the printer on campaign materials" what would happen to that? Does this bill put that back in? No, her bill takes it out.

Senator Rea asked about page 2, subsection 2, who determines what does and doesn't have the statement? Representative Kilpatrick responded that the campaign material may be so small, such as a pencil, card, etc., that you wouldn't have to put the party affiliation on it.

Senator Blaylock asked Brad Molnar if there are differences between Republicans and Democrats? Brad Molnar said there are great differences. Senator Blaylock asked do you believe there is a difference between the 2 parties here in Montana? Brad Molnar responded not necessarily. The leadership in parties change, philosophies change, funds change and who gets elected changes, depending on their own campaign and not the party platform.

Senator Blaylock asked Brad Molnar if he was aware of the fact that within committees, there are times when the vote is along party lines? Brad Molnar answered that he knew. Senator Blaylock asked if he was aware of the fact that in the full Senate and House, there are times when platform issues arise and the vote is along party lines? Brad Molnar answered that he is aware of that and occasionally party lines are broken by one or two individuals. Do you think the voters in your district should be aware that you will be doing that and reflecting the party line philosophy that is in your platform? Brad Molnar responded that he would not, he would represent the people of his district and not party leaders.

Senator Vaughn asked if the symbol is adequate without the party name? Representative Kilpatrick said the Commissioner of Political Practices said the symbol was acceptable and the party is understood.

Closing by Sponsor:

Representative Tom Kilpatrick gave the committee a letter from the Executive Director of the Montana Democratic Central Committee, Jane C. Murphy, supporting House Bill 195. (Exhibit 2) He said the people in your district have the right to know. He

thanked the committee for a good hearing and asked Senator Blaylock to carry this to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 195

Motion:

Senator Burnett moved to DO NOT CONCUR IN House Bill 195. Putting further regulations upon candidates is unnecessary.

Discussion:

Senator Hockett said there are valuable reasons for having the party designation on campaign materials. He believes when candidates leave that off it is a deliberate attempt to hide where they are positioned.

Senator Pipinich said he agrees with the bill. He puts the democratic label on his materials and in certain areas they return it, so he saves money. He's proud that he's a democrat and will put it on his materials anyway.

Senator Farrell believes that if you make the electorate read through the materials to find out which party is yours, at least they will read the material. He feels this is a non-issue.

Senator Rea said we should have the truth of our convictions. If you are going to be an independent, be one. This doesn't necessarily need legislation.

Senator Blaylock puts his party designation on everything and that does say something about what you are going to do if you get elected. We are not totally free individuals. Occasionally a person will separate from party platform, but he has a 90% voting record in support of the democratic platform. It's the people's right to know that he is a democrat.

Senator Burnett said he would represent the people in his district because he knows what they desire. He's lived there all his life.

Senator Hockett said the people in our district have a right to know, when we approach them, where we stand. He has many new people and they ask questions and are well informed by media.

Senator Vaughn agrees about the new people in the area needing to know. She followed her opponent into an area. The opponent didn't use party designation. Senator Vaughn did and several constituents were surprised to know which was the democrat.

Recommendation and Vote:

The ROLL CALL VOTE on the motion to DO NOT CONCUR IN House Bill 195 was 3 yes and 5 no. Motion failed.

Senator Blaylock moved that we DO CONCUR IN House Bill 195. The ROLL CALL VOTE was 5 yes and 3 no with 2 excused. Motion carried. Senator Blaylock will carry House Bill 195 to the Senate floor.

HEARING ON SENATE BILL 241

Presentation and Opening Statement by Sponsor:

Senator Chet Blaylock, Senate District 43, stated Senate Bill 241 is to revise the law relating to elected state officials to prohibit dual compensation of elected state officials in certain circumstances. This clarifies that members of the Public Service Commission are subject to the laws relating to absences from the state and appointment of acting officers. He gave the committee the proposed amendment to Senate Bill 241, on Page 2, line 10 would read following "official" insert "described in subsection 1" which would confine this bill to those people that are named. Then on page 2, line 13 following "entity" insert "including federal". He told of a Public Service Commissioner who was gone for 4.5 months to go to officers training school in Fort Leavenworth, Kansas, last year. He continued to draw both salaries. He asked the Auditor to stop payment on that salary and he asked the Governor to appoint a person to fill that office for the time the Public Service Commissioner was gone. Neither thing happened. The Auditor did not feel she had the authority to stop the state salary of a statewide elected official. Because he was drawing a Federal salary, there was nothing the State of Montana could do to make that salary stop. The Attorney General's opinion is fairly clear on this that it cannot be done, he did not feel that he had the power. He read part of the Constitution, Article 6, Section 5

"Officers of the executive branch shall receive salaries provided by law. During his term no elected officer of the executive branch may hold another public office or receive compensation for services from any other governmental agency. He may be a candidate for any public office during his term."

He further read,

"it makes it clear an elected official cannot hold 2 public offices at the same time nor can he be on 2 government payrolls or receive compensation from the Federal and State government for performing governmental duties.

.....I'm just concerned about National Guard officers. For instance my brother, Pete, down the road here is a National Guard officer. Could he be Governor and still hold his commission or say Auditor or something?

....He could be Governor and statutorily he would be

Commander of the National Guard but he couldn't get any extra salary other than his Governor salary for being the Commander of the National Guard."

The bill specifically lists the elected state officials that will be prevented from receiving 2 salaries at the same time. The National Guard's 3 weeks training in the summertime is specifically exempted. Likewise, the weekend guard duty is not bothered by this legislation. If they do go more than the 3 weeks, their state salary will be reduced dollar for dollar.

He believes politician is an honorable profession. We should be proud of the things we do to make laws for all our people to live by and we should honor the spirit, as well as, the letter of the law. He asked favorable consideration of Senate Bill 241.

Proponents' Testimony:

Susan Witte, Chief Legal Counsel for the State Auditor, explained that the Auditor is in charge of the central payroll. They couldn't withhold the Public Service Commissioner's salary because, they did not have the authority to withhold a Federal salary. She asked the Attorney General for clarification as to which salary was in violation of the constitutional dictate against dual compensation. The Attorney General said you can't touch that federal salary. He is in violation of the dual proscription against both those salaries but you can't touch that federal salary, because of federal preemption. The bill before you today, as amended, will address the problem specifically faced by the office with the Commissioner's situation. This only applies to statewide elected officials. It doesn't apply to any State Senators. The second amendment is more important. After other governmental entity the words "including Federal" would be included, which means that both salaries would be in action. He'd have orders from the federal government. Under this bill he would have to report to the State Auditor the amount of compensation he was receiving. The State Auditor would then have the authority under this bill to reduce his state salary and let him keep his federal salary. She thinks the amendments are important to the bill, because the Attorney General did not extend his opinions into a definition of governmental entity. Please pass Senate Bill 241 as amended.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Hockett asked if he could go back on his other salary also. Senator Blaylock responded if his employer would do that. Senator Blaylock explained when a teacher comes to the Legislature, his salary stops but they do keep paying his health insurance.

facsimile transmission by electors in the United States service. Is it just for electors in U.S. service? Attorney Niss answered that was correct. The purpose of the amendment was to limit the application of bill for voting by facsimile. As the bill is presently written anyone could vote by facsimile if they wanted. This amendment restricts severely the vote by facsimile.

Senator Farrell explained that the Secretary of State wanted until 1995 to use this type of technology. Currently, with a fax vote there is going to be one other person who knows how you vote.

Amendments, Discussion, and Votes:

Senator Farrell MOVED to RECONSIDER action taken on February 7, 1991, regarding AMENDMENTS 4 and 5, made on House Bill 225.

Senator Hockett thought the reason for this bill was to try on a limited scale this type voting and then make their decision.

Attorney Niss explained that the 1995 date is only a reporting date. The reason it's so far in the future is to gain experience with the use of the authorized voting by facsimile machines. This gives them 2 years of elections. The other dates are: everything but the first subsection is effective July 1, 1992. Everything else is effective immediately. That is the technique used when rule making by an agency is involved to give them the authority to sit down and immediately start working out rules. The rules only become effective, when the law they implement becomes effective, which in this case is section 2, subsection 1, which becomes effective July 1, 1992.

The VOTE on the motion to reconsider action on House Bill 225 was UNANIMOUS. This puts the bill back in its original wording.

Senator Farrell MOVED that we ACCEPT AMENDMENTS as outlined in Exhibit No. 3.

The VOTE to accept the new amendments on House Bill 225 was UNANIMOUS.

Recommendation and Vote:

Senator Pipinich MOVED that we DO CONCUR IN HOUSE BILL 225 AS AMENDED. The VOTE was UNANIMOUS in favor of House Bill 225 as amended. Senator Farrell will carry House Bill 225 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 140

Motion:

Senator Pipinich MOVED to DO CONCUR IN HOUSE BILL 140.

Senator Pipinich said he's on leave of absence from his employer but they do keep his insurance in force. Will this bother the National Guard? Senator Blaylock said they are specifically excluded in the bill.

Closing by Sponsor:

Senator Blaylock closed the hearing.

EXECUTIVE ACTION ON SENATE BILL 241

Motion:

Senator Pipinich moved that we accept the proposed amendments to Senate Bill 241. On page 2, line 10 following the word "official" add "described in subsection 1" and page 2, line 13 following the word "entity" insert "including federal". Then the title needs an addition. On page 1 in the title, line 6 insert the word "certain" before the word "elected".

Discussion:

None

Amendments, Discussion, and Votes:

The VOTE was UNANIMOUS in favor of accepting the amendments to Senate Bill 241.

Recommendation and Vote:

Senator Pipinich MOVED we DO PASS Senate Bill 241 AS AMENDED. The VOTE was UNANIMOUS in favor of Senate Bill 241 as amended.

EXECUTIVE ACTION ON HOUSE BILL 225

Discussion:

Attorney Niss gave the committee a list of 5 amendments. (Exhibit 3) He went through the bill and explained them to the committee.

Senator Farrell explained that they will have 2 election cycles without expanding this to residents within the continental United States. David Niss read the section of law 13-2-211 and clarified that this section reference takes care of all the bill. This is essentially the same language as appears in the federal act, which the clerk and recorder from Ravalli County wanted to use. We have a definition in state law so there is no reason to reference federal law.

Senator Vaughn asked if on line 6 it says an act permitting election administrators to allow registration and voting by

Discussion:

Senator Burnett asked about the 2 excused senators and their votes. No proxy votes have been left on House Bill 140.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The ROLL CALL VOTE was 6 yes and 2 no to DO CONCUR IN HOUSE BILL 140. Motion carried. House Bill 140 will be carried to the Senate floor by Senator Bob Brown.

ADJOURNMENT

Adjournment At: 11:15 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

EV/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE Feb. 8, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL	X		
SENATOR HARRY FRITZ			<i>excused</i>
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			<i>excused</i>

Each day attach to minutes.

DATE February 8, 1991

State Administration

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

House Bill 195
Testimony by Brad Molnar February 1991

This bill has been called a "fairness in advertising" and a "right to know" measure. Both labels are "false advertising". Fairness in political advertising would be to let the candidates choose what, if any, issues they choose to put forth to the voters and let the voters decide who they feel would best represent their interests. Exactly as its done now. What fairness is there in having Representative Kilpatric, or any one else, determine what all candidates hence forth must put on their materials?

Is it really the purpose of the Montana Legislature, or any other governmental body, to determine what is politically acceptable to be printed? If so where does this authorization come from... certainly not the Constitution of the United States which guarantees freedoms of speech and press.

Is this a Right to Know issue? Right to know what? Those of us here gathered know that the R & D tell you nothing as to how a person may vote on any one of the 2000+ bills introduced this year. Ask a man on the street and he'll tell you that Democrats are "Pro Choice" yet we realize that 15 Democratic candidates were endorsed by Montana Right to Life and Andrea Bennet (R), (State Auditor) received an award for her work from Montanans for Choice.

The same man on the street will tell you that Republicans want a sales tax and Democrats don't. The sales tax bill that came closest to passing last session was introduced by Rep. Bradley (D) of Bozeman. This committees own Senator Chet Blaylock (D) *(Committee)* twice endorsed a sales tax and I as a Republican candidate opposed it.

If the Republican Convention taught me anything it is that there is no consensus of thought amongst Republicans. You could hear them arguing three rooms away and, when the smoke cleared, nobody had changed their minds. A friend of mine that attended the Democratic convention tells a similar story. These are but a few examples to show that the R & D carry no message at all but rather may be misleading as to an individuals true stands and ideology. Hopefully we are still viewed as individuals and not dogmatic robotrons serving only our party leaders. *who*

This bill would have the opposite effect of fairness and education. As survivors of political campaigns you realize that the life expectancy of a political brochure is from the front door to the garbage can. Many people think that they know all there is to know about a candidate by reading the D or R after the candidates name. Their prejudices come into full play as they recall the silly one liners that the ad men of both parties have carefully created and nurtured despite accuracy or lack thereof. *liberals*

That's what this bill will propagate...an ignorant electorate. One that won't feel the need to read and study to find out which candidates best represents their views let alone where that candidate differs from his parties platform (or image) and where he agrees. Is it so terribly wrong to expect an adult to read all of the message before forming an opinion? Has allowing the candidate to determine the best way to present that message served the system so poorly?

The
party

Only the most politically insecure would vote for this bill. If the party affiliation is the most important aspect of ones candidacy then he has nothing new to bring to the legislature and should stay home.

and

Montana is currently 46th in the nation for personal income. We are only \$1 a day ahead of #50, Mississippi. I believe that the Legislature should be trying to get us from the bottom ten, into the top ten, not trying to tell candidates how to run their campaigns.

On behalf of myself and all others that treasure our freedoms of speech and press and those that would appreciate a little less government in our lives, instead of a few more regulations, I would ask for your "no" vote on this issue.



SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 2-8-91

BILL NO. HB 195

February 8, 1991

Madam Chair and Members of the Senate State Administration Committee,

For the record, my name is Jane Murphy and I live in Helena. I am the Executive Director of the Montana Democratic Party, and on their behalf I urge your support of House Bill 195.

Simply put, to not include party affiliation on campaign materials for a partisan election is to be less than honest with Montana's voters.

There are clear philosophical differences between the Democratic and Republican parties which are reflected in their respective platforms. When a candidate files for office, he or she is required to declare his or her party affiliation by filing as a Democrat, Republican, or third party candidate.

Currently, the law requires that the individual or group paying for a candidate's campaign materials be disclosed on those campaign materials in the form of a disclaimer. The law should also require that the candidate disclose their party affiliation as they declared it at the time of their filing for office.

The public has the right to know what party the candidate is affiliated with.

With that thought, I'd again urge your support and passage of House Bill 195.

Thank you for this opportunity to present our thoughts.

Sincerely,

Jane C. Murphy
Executive Director

Amendments to House Bill No. 225
Third Reading Copy

Requested by Sen. Bill Farrell
For the Committee on State Administration

Prepared by David S. Niss
February 7, 1991

1. Title, line 6.

Following: "TRANSMISSION"

Insert: "FOR ELECTORS IN THE UNITED STATES SERVICE"

2. Page 2, line 23.

Strike: "the state's residents"

Insert: "electors in the United States Service"

3. Page 3, line 5.

Following: "voting"

Insert: "for electors in the United States service"

4. Page 3, line 16.

Following: "or"

Insert: ", for the purposes of registration under subdivision
(a),"

5. Page 3, line 17.

Following: "elector"

Insert: ", in the United States service as defined in 13-2-211"

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date 2-8-91 Bill No. AB 195 Time 10:50

NAME	YES	NO
Chairman Eleanor Vaughn		X
Vice Chairman Bob Pipinich		X
Senator John Anderson	X	
Senator Chet Blaylock		X
Senator James Burnett	X	
Senator "Bill" Farrell	X	
Senator Harry Fritz		
Senator Bob Hockett		X
Senator Jack "Doc" Rea		X
Senator Bernie Swift		

Dolores Harris
Secretary Dolores Harris

Chairman Eleanor Vaughn

Motion: motion to do not pass.
H B. 195. Motion failed.

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date 2-8-91 Bill No. HB 195 Time 11:00

NAME	YES	NO
Chairman Eleanor Vaughn	X	
Vice Chairman Bob Pipinich	X	
Senator John Anderson		X
Senator Chet Blaylock	X	
Senator James Burnett		X
Senator "Bill" Farrell		X
Senator Harry Fritz		
Senator Bob Hockett	X	
Senator Jack "Doc" Rea	X	
Senator Bernie Swift		

Dolores Harris
Secretary Dolores Harris

Chairman Eleanor Vaughn

Motion: moved HB 195 do pass.
motion Carried. Sen Blaylock
will carry.

ROLL CALL VOTE

SENATE COMMITTEE. STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date 2-8-91 Bill No. HB 140 Time 11:20

NAME	YES	NO
Chairman Eleanor Vaughn	X	
Vice Chairman Bob Pipinich	X	
Senator John Anderson	X	
Senator Chet Blaylock	X	
Senator James Burnett		X
Senator "Bill" Farrell		X
Senator Harry Fritz		
Senator Bob Hockett	X	
Senator Jack "Doc" Rea	X	
Senator Bernie Swift		

Secretary Dolores Harris

Chairman Eleanor Vaughn

Motion: Pipinich moved we do Concur
in H. B 140. Motion carried.

Feb. 8, 1991 - Committee hearing

Amendments to Senate Bill No. 241
First Reading Copy

Requested by Sen. Blaylock
For the Committee on State Administration

Prepared by David S. Niss
February 10, 1991

1. Title, line 6.

Following: "COMPENSATION OF"

Insert: "CERTAIN"

2. Page 2, line 10.

Following: "official"

Insert: "described in subsection (1)"

3. Page 2, line 13.

Following: "entity"

Insert: "including federal,"

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 11, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 225 (Behind reading copy -- blue), respectfully report that House Bill No. 225 be amended and as so amended be concurred in:

1. Title, line 6.

Following: "TRANSMISSION"

Insert: "FOR ELECTORS IN THE UNITED STATES SERVICE"

2. Page 2, line 23.

Strike: "the state's residents"

Insert: "electors in the United States Service"

3. Page 3, line 5.

Following: "voting"

Insert: "for electors in the United States service"

4. Page 3, line 16.

Following: "or"

Insert: ", for the purposes of registration under subdivision
(a),"

5. Page 3, line 17.

Following: "elector"

Insert: ", in the United States service as defined in 13-2-211"

Signed: _____

Eleanor Vaughn, Chairman

H. Gen. Conf.
And. Coord.

2/11 7:20
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 8, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 195 (third reading copy -- blue), respectfully report that House Bill No. 195 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

1/27/91 2-8-91
Amd. Coord.

SR 2-8 1:30
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 11, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 241 (first reading copy -- white), respectfully report that Senate Bill No. 241 be amended and as so amended do pass:

1. Title, line 6.

Following: "COMPENSATION OF"

Insert: "CERTAIN"

2. Page 2, line 10.

Following: "official"

Insert: "described in subsection (1)"

3. Page 2, line 13.

Following: "entity"

Insert: ", including a federal entity,"

Signed: Eleanor Vaughn

Eleanor Vaughn, Chairman

md -2-11-91
md. Coord.

SR 2-11 1:00
Sec. of Senate

310844SC.Sjl