

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairperson Eleanor Vaughn, on February 19, 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)
Harry Fritz (D)
Bob Hockett (D)
Jack Rea (D)

Members Excused: Senator Bernie Swift

Staff Present: David Niss (Legislative Council).

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

Announcements/Discussion: We've ordered lunch for 12 noon so that we can work during the lunch hour.

HEARING ON SENATE BILL 347

Presentation and Opening Statement by Sponsor:

Senator James Burnett, Senate District 42, stated that Senate Bill 347 would transfer the appointment of the Commissioner of Political Practices from the governor to the chief justice. He read testimony into the record and gave historical data for the position. (Exhibit 1, 2, 3, and 4,)

Proponents' Testimony:

None

Opponents' Testimony:

C. B. Pearson, Executive Director of Common Cause in Montana, opposes this bill because it would be inappropriate for a Supreme Court Judge because this person could instigate legal

action and end up before the Supreme Court and there would be a conflict of interest. The essential nature of the Commissioner of Political Practices. This country has gone through various trends in political practice, enforcement and disclosure. This office was created after a very traumatic experience with campaign funds. He believes this doesn't need to be altered at this time. This position is chosen by leadership of the house and senate would appoint 3 to 5 people and the governor would choose from those.

Questions From Committee Members:

Senator Blaylock stated that this bill doesn't take politics out of anything. Senator Burnett thinks that the Chief Justice of the Supreme Court as a non partisan should put his political preferences aside when judging. This position monitors the ethics of campaigns and the judge doesn't run for political office any more.

Senator Anderson said there is recommendations from the legislature for the candidates to the governor and he has to pick from those.

Dolores Colburg quoted the statute that the Commissioner is appointed by the Governor subject to confirmation by the Senate. The process includes a 4 member selection committee comprised of the Speaker of the House, the President of the Senate and the Minority Floor Leaders of both houses. They shall submit not less than 2 nor more than 5 names for consideration. The appointment must have a majority vote.

Closing by Sponsor:

Senator Burnett closed the hearing on Senate Bill 347.

EXECUTIVE ACTION ON SENATE BILL 347

Motion:

Senator Burnett moved we DO PASS SENATE BILL 347.

Discussion:

Senator Rea stated that the present system would be more fair than one individual appointing a commissioner.

Senator Pipinich said that judges are positioned for a long time while the governor changes by the vote of the people.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE to DO PASS SENATE BILL 347 was 2 YES and 7 NO. The motion failed. Senator Blaylock moved to TABLE SENATE BILL 347. The VOTE was UNANIMOUS to TABLE Senate Bill 347.

EXECUTIVE ACTION ON SENATE BILL 175Discussion:

Senator Pipinich wants to take Senate Bill 175 to the floor for discussion. Senator Farrell doesn't want to pass this bill, but an adverse committee report would be alright. Senator Hockett said the Director of Highways didn't seem to be enthusiastic about it and was concerned about the morale of the department.

Senator Pipinich wanted to show that the \$1,4 million would be absorbed in the \$8 million budgeted for consultants. Senator Farrell is against segregating out some from the pay plan. We need more money for all the employees.

Recommendation and Vote:

Senator Farrell moved that Senate Bill 175 DO NOT PASS. The VOTE was 2 No and 5 Yes. Motion carried. Senate Bill 175 will go to the floor with an adverse committee report.

HEARING ON SENATE BILL 350Presentation and Opening Statement by Sponsor:

Senator Paul Svrcek, Senate District 26, Thompson Falls said Senate Bill 350 was requested by the legislative audit committee. In the 1989 session we amended by 2 different pieces of legislation this section of law that were not totally compatible. This legislation will clarify the law and remove the ambiguities that now exist. Section 1 requires applicants to submit draft legislation with their application. Section 2 clarifies that applications for consolidation of existing licensing boards must pay an application fee. Section 3 clarifies who is considered the applicant for proposing consolidation. Section 4 deletes the current requirement that a legislative or executive department study the need to license a new profession or occupation. Section 5 repeals certain sections of the code which requires a report to the legislative audit committee.

Proponents' Testimony:

Steve Meloy, Bureau Chief of Professional Occupational Licensing, and in glancing at this bill finds it to be an effective tool to clarify small licensing functions into one

superboard. He supports Senate Bill 350.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Blaylock asked for an example of boards that could be merged? Steve Meloy said that currently in the Board of Medical Examiners you have Dietitians, Medical Technicians, Physician Assistants, etc.

Senator Pipinich asked if the other bills were going through? Steve Meloy responded those people are working very hard and this sunrise process should clarify and facilitate any merging.

Senator Farrell asked Scott Seacatt if he was satisfied with this bill? He said he had requested this bill and is supporting it.

Senator Blaylock asked if there would be an explosion when you start to merge? Mr. Seacatt said there is benefit to consolidating the boards. Some benefit is in the commensurate cost. Senator Blaylock said they can use those costs to keep people out. Scott Seacatt responded that's what professional occupational licensing is all about.

Closing by Sponsor:

Senator Svrcek said this is a clean up of a pretty good system. Legislative Audit Committee has mixed feelings about being involved in the sunrise process. Please give favorable passage to Senate Bill 350.

EXECUTIVE ACTION ON SENATE BILL 350

Motion:

Senator Farrell moved to DO PASS SENATE BILL 350.

Recommendation and Vote:

The VOTE in favor of passing Senate Bill 350 was UNANIMOUS.

HEARING ON SENATE BILL 399

Presentation and Opening Statement by Sponsor:

Senator Paul Svrcek, Senate District 26, Thompson Falls, said Senate Bill 399 requires initiatives be made available for reading and signing in the office of the election administrator in each county. On line 22 you may want to change the word "shall" to "may". The Secretary of State will make a copy of

each initiative and send them to the county election administrator. Given the geographic length and breadth of this state, anything that we can do to support the initiative process and get them to the people is a good thing.

Proponents' Testimony:

C. B. Pearson, Executive Director of Common Cause Montana, said this is a good bill. It is important that these bills are out and available for the public to review.

Doug Mitchell, Secretary of State's office, supports this bill because it is a good process. They mail those out anyway as it's a function of their office.

Opponents' Testimony:

Betty Lund, Clerk and Recorder of Ravalli County, opposes this bill. The Secretary of State does send initiative petitions to the local clerk and recorders and they are available in county offices. They are not instructed to circulate them. Initiative carriers should be the persons who get signatures and the clerk and recorders check those. This is a conflict of interest issue. On the petition it says you are a circulator.

Questions From Committee Members:

Senator Farrell asked Senator Svrcek if he wanted that available in the county office? Are you placing responsibility on the election administrators? Senator Svrcek said they don't want to give more responsibility to the election administrators. They just want to let it be open to the public.

Senator Farrell asked Doug Mitchell if they have to sign that they are a circulator? Doug Mitchell said the current petition says that language is on there. He believes they can settle this problem administratively.

Senator Burnett asked if the Secretary of State has to draw up the petition? Doug Mitchell said they draw up an intent. They send it to the Legislative Council and then it becomes a complete petition. The Secretary of State approves the form and sends it out to the locals and they can duplicate it and gather signatures.

Senator Vaughn asked Doug Mitchell if the Secretary of State can take care of that problem of signing the petition as a carrier administratively or does this bill need to be amended to do that? He said administratively he could declare that it was given to the clerk and recorder for placement for public signature and therefore exempt them from being a circulator.

Closing by Sponsor:

Senator Svrcek reminded the committee to consider "shall" and "may" on the charge. His purpose is to serve the public by making these petitions available for reading and signing and to do that with a minimum of problem for everyone.

EXECUTIVE ACTION ON SENATE BILL 399

Motion:

Senator Pipinich moved to AMEND Senate Bill 399, line 22, take out "shall" and insert "may".

Discussion:

None

Amendments, Discussion, and Votes:

The VOTE was UNANIMOUS TO AMEND Senate Bill 399.

Recommendation and Vote:

Senator Pipinich moved that we DO PASS AS AMENDED SENATE BILL 399. The VOTE was UNANIMOUS in favor of Senate Bill 399.

EXECUTIVE ACTION ON SENATE BILL 183

Discussion:

Senator Farrell asked Senator Blaylock why they stopped allowing the appeal on the grade assignment? Senator Blaylock said we would have an epidemic at this point if we accepted this bill. Senator Pipinich said employees are mad, they need more money and are trying to get it anyway they can. We need more money. Senator Blaylock said in government, it only comes from taxes.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

Senator Blaylock moved that SENATE BILL 183 DO NOT PASS. The VOTE was UNANIMOUS in favor of the motion to do not pass.

EXECUTIVE ACTION ON HOUSE BILL 326

Motion:

Senator Rea moved we DO PASS HOUSE BILL 326.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of House Bill 326.

HEARING ON SENATE BILL 358

Presentation and Opening Statement by Sponsor:

Senator Tom Beck, Senate District 24, Deer Lodge and Lewis & Clark area, said Senate Bill 358 revises the requirements for a political party who gets 5% of the electorate vote, in any of 2 general elections within the past 4 years, can nominate its candidates by primary election.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions From Committee Members:

Senator Vaughn asked if a combination of any 2 of the last general elections. Senator Beck said any of the last general elections.

Senator Fritz asked if a party got 5% of the vote in the 1988 election, he would be eligible in the 1990 and 1992 election? Senator Beck responded yes.

Closing by Sponsor:

Senator Beck closed the hearing on Senate Bill 358.

EXECUTIVE ACTION ON SENATE BILL 358

Motion:

Senator Pipinich moved that we DO PASS SENATE BILL 358.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

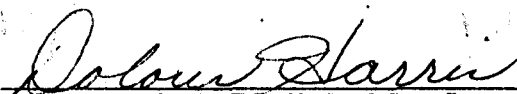
The VOTE was UNANIMOUS in favor of SENATE BILL 358.

ADJOURNMENT

Adjournment At: 12:30 p.m.



ELEANOR VAUGHN, Chairman



DOLORES HARRIS, Secretary

EV/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE Feb 19, 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	X		
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			<i>excused</i>

Each day attach to minutes.

DATE Feb, 9, 1991

COMMITTEE ON State Administration

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 2-19-91

BILL NO. SB 347

MEMORANDUM

TO:

FROM: Senator James Burnett
Senate District 42

DATE: February 15, 1991

SUBJECT: Fair Campaign Practices

I would like to give you an explanation as to why the Office of Commissioner of Political Practice was conceived and finally established. In 1969, a resolution required a study of elections. A 1973 interim study by a subcommittee did make a recommendation and by 1975 Governor Judge requested a bill.

Senate Bill 76 was sponsored by Representatives Greely, Watts, and Romney. It is "An act revising political campaign reporting requirements; creating the position of Commissioner of Political Practices authorizing a commissioner in conjunction with the county attorneys, to enforce Montana's election laws and to regulate Montana's campaign financing laws as specified in Title 23 RCM 1947; specifying the powers and duties of county attorneys and other local officials; requiring candidates and political committees to designate a campaign treasurer and a campaign depository; authorizing the creation of petty cash fund for all candidates and political committees: authorizing citizens to bring actions to force compliance with the act; Providing civil and criminal penalties."

Initially the discussion was - whether to go along with the interim committee's recommendation that the office should be placed under the election office of the Secretary of State. Page 6 of the interim study. As I recall, the committee decided that it might be less political if placed under the Governor's appointment. The question at that time was, did the Constitution mandate that it be by appointment of the Governor. Article VI Section 7 (20 departments) all executive and administrative officers, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of the Governor, Lieutenant Governor, Secretary for State,

Page Two
February 15, 1991

Attorney General, Superintendent of Public Instruction and State Auditor) and their respective functions, powers and duties, shall be allocated by law among not more than 20 principal departments so as to provide an orderly arrangement in the administrative organization of state government.

Governor Stephens' staff said they would not object to this proposal of having the Chief Justice of the Supreme Court in making the appointment. I asked the Chief Justice about this prior to having the bill written; he said they would do it if we passed the bill. The Attorney General and his staff felt that it is a grey area and if the legislature passed this, they would defend it. They would rather have a court make the decision as to the constitutional question than the Attorney General to issue an opinion.

I would believe this office is not an essential function of the state government and that state government has operated previously to the establishment of the Office of Commissioner of Political Practices. Should the office be eliminated, state government would still go on with no limitations. The effect the commissioner has on state government is vague and is not measurable to any extent.

It is my belief that to be a non partisan appointment, it should be made by an elected official that has been elected as non partisan. I believe the Chief Justice of the Supreme Court qualifies in this regards.

JB/fdh



THE STATE OF MONTANA

**COMMISSIONER OF POLITICAL
PRACTICES**

CAPITOL STATION
1205 EAST EIGHTH AVENUE
HELENA, MONTANA 59620
PHONE: (406) 444-2942

FOR OFFICE USE ONLY

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 2-19-91

BILL NO. SB 347

TO BE FILED BY

CANDIDATE

FORM

C-3

Rev. 10/89

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play that every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues before the country.

Therefore:

1. I will conduct my campaign in the best American tradition, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponent and his party which merit such criticism.
2. I will defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.
3. I will conduct my campaign without the use of personal vilification, character defamation, whispering campaigns, libel, slander, or scurrilous attacks on my opposition or his personal or family life.
4. I will not use campaign material of any sort which misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which aim at creating or exploiting doubts, without justification, as to the loyalty and patriotism of my opposition.
5. I will not make any appeal to prejudice based on race, sex, creed, or national origin.
6. I will not undertake or condone any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections or which hampers or prevents the full and free expression of the will of the voters.
7. Insofar as is possible, I will immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I have pledged not to use or condone.

CERTIFICATION

I acknowledge having read this code. I understand its provisions. I fully intend to abide by this code during the course of my campaign.

Candidate's Name (Type or Print Clearly)

Signature

Office Sought (Type or Print Clearly)

Date

CHAPTER NO. 475**AN ACT TO ADOPT A CODE OF FAIR CAMPAIGN PRACTICES AND TO PROVIDE AN OPPORTUNITY FOR ALL CANDIDATES TO SUBSCRIBE TO THAT CODE.**

Be it enacted by the Legislature of the State of Montana:

Section 1. Adoption of code of fair campaign practices. The following code of fair campaign practices is adopted by Montana:

There are basic principles of decency, honesty, and fair play that every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues before the country. Therefore:

I will conduct my campaign in the best American tradition, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponent and his party which merit such criticism.

I will defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I will conduct my campaign without the use of personal vilification, character defamation, whispering campaigns, libel, slander, or scurrilous attacks on my opposition or his personal or family life.

I will not use campaign material of any sort which misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which aim at creating or exploiting doubts, without justification, as to the loyalty and patriotism of my opposition.

I will not make any appeal to prejudice based on race, sex, creed, or national origin.

I will not undertake or condone any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections or which hampers or prevents the full and free expression of the will of the voters.

Insofar as is possible, I will immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I have pledged not to use or condone.

Section 2. Candidates to be given opportunity to subscribe to campaign practices code — publicity. (1) The commissioner of campaign practices shall prepare a form which contains the code of fair campaign practices provided for in [section 1] and a place for a candidate to sign the form and to indicate that the candidate endorses, subscribes to, and pledges to abide by the code.

Art. VI, § 7

CONSTITUTION OF MONTANA

Convention Notes

Revises 1889 constitution [Art. VII, secs. 7, 15, 16] by changing method of filling vacancy in office of lieutenant governor. Senate confirmation no longer re-

quired for appointments to fill vacancies in offices listed.

Cross-References

Resignation and vacancies, sec. 59-601 et seq.

Section 7. 20 departments. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 20 principal departments ~~so as to provide an orderly arrangement in the administrative organization of state government.~~ Temporary commissions may be established by law and need not be allocated within a department.

Convention Notes

Only grammar change in 20 department reorganization amendment [Art. VII, sec. 21] adopted by the people in November, 1970.

Cross-References

Reorganization of executive department, Title 82A.

Section 8. Appointing power. (1) The departments provided for in section 7 shall be under the supervision of the governor. Except as otherwise provided in this constitution or by law, each department shall be headed by a single executive appointed by the governor subject to confirmation by the senate to hold office until the end of the governor's term unless sooner removed by the governor.

(2) The governor shall appoint, subject to confirmation by the senate, all officers provided for in this constitution or by law whose appointment or election is not otherwise provided for. They shall hold office until the end of the governor's term unless sooner removed by the governor.

(3) If a vacancy occurs in any such office when the legislature is not in session, the governor shall appoint a qualified person to discharge the duties thereof until the office is filled by appointment and confirmation.

(4) A person not confirmed by the senate for an office shall not, except at its request, be nominated again for that office at the same session, or be appointed to that office when the legislature is not in session.

Convention Notes

Subsection (1) new provision. Unless law provides otherwise governor appoints heads of the 20 departments, subject to senate confirmation. No change except in

grammar in subsections (2) and (3) [Art. VII, sec. 7]. Subsection (4) is new provision prohibiting nomination or appointment of persons previously rejected by senate.

Section 9. Budget and messages. The governor shall at the beginning of each legislative session, and may at other times, give the legislature information and recommend measures he considers necessary. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail for all operating funds the proposed expenditures and estimated revenue of the state.

~~Office of the~~
SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2-19-91

BILL NO. SB-347

INTERIM STUDY BY THE
SUBCOMMITTEE ON
CONSTITUTION, ELECTIONS AND FEDERAL RELATIONS

ELECTION REFORM

December 1973

Montana Legislative Council
State Capitol
Helena, Montana

Membership
Subcommittee on
Constitution, Elections and Federal Relations

SENATE

Jack McDonald,
Chairman
Antoinette Rosell,
Vice Chairman
Harry T. Northey
A. A. Zody

HOUSE

Mike Greely
Tom Haines
Hal Harper
Al Kosena

Montana Legislative Council:
Researcher, Robert B. Pearson
Executive Director, Mrs. Rose Weber
Chairman, Senator Carroll Graham

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INTRODUCTION

In accordance with the direction of House Joint Resolution No. 14, the Joint Interim Subcommittee on Constitution, Elections, and Federal Relations undertook a study of election laws pertaining to cities and towns. Consideration was given to the fact that problems raised by earlier studies were yet to be solved, to problems and questions raised by officials in cities and towns responsible for conducting elections, and to the obvious confusion of the election code. It readily became clear that the problems associated with laws governing local elections are too complex to be resolved expediently and that only extensive concentrated work on code revision can solve these problems.

The subcommittee therefor recommends that further study of codes governing local elections be conducted. It further recommends that this further study concentrate on developing the feasibility of implementing one or more of the suggested solutions to the problem which have been considered by the subcommittee and which are discussed in this report. It also recommends that extensive coordination and cooperation be effected between responsible legislative and administrative officials.

The subcommittee recommends a broad mandate be given for a two-year study.

This report discusses problems amenable to immediate solution as well as approaches to more comprehensive solutions for other problems.

GENERAL

To determine the specific problems which plague municipal election officials, the city clerk of each county seat was asked for an evaluation of the major election problems experienced since the election law revision in 1969. Although the response was not overwhelming (ten out of fifty-six clerks responded), there were sufficient comments to point out widespread problems which fall into three categories.

First, there are procedural requirements which are unclear or unnecessary especially as applied in smaller cities and towns. Relatively simple amendatory bills could solve many of these problems.

Second are problems created by lack of understanding of the election code. Part of this problem results from the fact that lay people administer city elections as only a portion of their

total responsibility. As a result, they do not become completely familiar with the provisions of the law. The other part of the problem is that the code really is ambiguous in many areas relating to city elections.

A third area in which revision in statutes and procedures would be the best solution is described by the complaints received from various city clerks. These clerks complain of too many elections with too few candidates, poor timing requirements on the election calendar, conflicting dates with school district elections, the need for better training for election workers, and election laws that are confusing because they are spread out in several titles in the codes.

Problems in the last two categories could be solved by some sweeping changes in the election law: changes designed to cut down on the bulk of the law, consolidate the law, provide uniformity in election procedure, and provide administrative channels for solving election problems before they occur. These changes could also result in greater voter turnout and lower overall election costs for local governments. The following measures are among ways to achieve these ends:

- (1) Consolidate all election codes into one title and organize them topically.
- (2) Consolidate all regular local elections including municipal, county, school district, and other district elections.
- (3) Establish a statewide election administration (probably in the office of the Secretary of State) with legal authority to promulgate administrative regulations for conducting elections and to provide authoritative guidance and answers for local problems.
- (4) Pare to a minimum the administrative detail contained in the election codes and allow these details to be determined administratively.

The remainder of this report will discuss each of these four proposals in detail. Only detailed further study can determine how much or how little of each suggestion could be implemented in Montana.

CODE CONSOLIDATION

Consolidate all election codes into one title and organize them topically.

The provisions for qualifications of electors, administration of elections, and responsibilities of officials are set out in Titles 11, 16, 23, and 75. The Corrupt Practices Act has been recodified into Title 23 from Title 94 without substantial change. The fact that election officials must search through so many pages makes their job much more difficult. Conflicts have also occurred because, with so many sections cross referenced, amendments to the law often overlook conflicts they create.

It should also be noted that the officials administering local elections often do not have ready access to the codes because they have been lost or misplaced. This may be largely due to the fact that when the codes are consulted it is found that complicated cross referenced sections are of little help to them. What is needed is an election code containing clear-cut procedures written in unambiguous language. Achieving this goal as a part of code consolidation would be helpful.

Because the manner of conducting all elections is substantially the same, the law could be drawn so that each topic of election law could be taken up in one place and the responsible party in each type of election could be identified. This would require much careful drafting but the result would be a more compact and clear election code. Another way would be to devote a chapter to each type of election providing as much uniformity as possible. In any case, city clerks have agreed that having city election laws in one section of the codes would be a giant step forward.

CONSOLIDATION OF LOCAL ELECTIONS

Consolidate all regular local elections including municipal, county, school district, and other district elections.

The Montana Legislative Council Report No. 24, dated October 1968, stated that although there was strong disapproval throughout the state of holding municipal elections along with general elections, there was some interest among city officials contacted in combining municipal elections and school elections. A number of municipal election officials have made similar recommendations this year.

Consolidation of elections would enable a similar calendar of events to be followed each year simplifying election administration extremely. Existing local conflicts could also be corrected.

At present, Section 11-709 sets the date for city elections on the first Tuesday of April of every second year and Section 75-1603 sets an annual election of school trustees on the first Saturday in April. The administrative load of holding two separate elections so close together is heavier than need be while the fixed cost of operating each election is high even though not many candidates or issues are involved. This situation also irritates voters who must remember to fit many elections into their schedules. Voter turnout is notoriously low for local elections and among the contributing causes for this must be the number of relatively low profile elections held in local communities.

This reasoning leads one to suggest even further election consolidation for the following reasons:

- (1) To prevent duplicate voting and other frauds, it has been accepted that all regular elections of the same type should be held at the same time statewide. If municipal and school elections were held together, all school district elections should be held on the same date as the consolidated election.
- (2) In a letter written to the Legislative Council in July 1969, the late Willard E. Fraser, then Mayor of Billings, pointed out that "city governments deal directly with 'people problems' and these include bond issues for airports, sewers, streets, slums, pollution, garbage, dogs, ditches, health, parks, police, fire, recreation, and water." He went on to say that city and school elections "are both essentially elections dealing with local and community problems." Along this line of reasoning one can recognize that all local elections held within a county are of this nature and

to consolidate them would not inject irrelevant state and national issues into local elections nor would the attention of the voter be distracted from concentration on local issues. In fact, it would appear that interest in local issues would be heightened if all local issues and candidates were under scrutiny at one time. Furthermore, a more aroused, interested, and informed electorate should turn out in greater numbers than is now the case. It should not be hard to improve on the 20% voter turnout now common in municipal elections.

- (3) The 1973 Montana Constitution provides other incentives for consolidating local elections. The first of these is the fact that single member legislative districts will be apportioned as nearly equally as possible according to the decennial federal census. It will not be possible for these legislative districts to be contained within single counties in many cases; thus, voting for a legislator will become an issue not so much related to county politics and issues as to statewide issues. It would be well to separate these elections for this reason. The second is the fact that the new constitution permits local government units to adopt self-government charters. It is highly likely that some charters might provide for county-wide government. If local elections were already consolidated there would need be no special administrative problem in a local self-government charter county. Uniformity of election procedure could thus be maintained.

If elections were consolidated in this manner, the maximum benefit would be derived from holding them in the off year on the same day as is used for the general election. For example, these elections would be held the first Tuesday after the first Monday in November in odd numbered years. A primary election could be held, where required, one month in advance of this election.

STATEWIDE ADMINISTRATION

Establish a statewide election administration (probably in the Office of the Secretary of State) with legal authority to promulgate administrative regulations for conducting elections and to provide authoritative guidance and answers for local problems.

Personnel in the Office of the Secretary of State and in the League of Cities and Towns have indicated that there is a significant problem in election administration which can be traced to the fragmentation of authority and responsibility for election administration. City and county clerks who encounter problems in the rush of pre-election and election day activities, need quick authoritative guidance in most cases. Usually they cannot get it because there is no central authority at city, county, or state level which is responsible to make decisions or follow-up on orders. When there is a question of legal interpretation, statewide uniformity is not possible because each area can follow its own ideas. Guidance at state level can only be unofficial and guidance suggestions need not be followed by local officials. The National Municipal League points out that the need for uniformity in procedures with allowable flexibility to cope with local situations is the main reason for establishing a central election administration system. Accomplishment of this goal in Montana would alleviate many of the difficulties encountered in municipal elections.

The Montana Administrative Procedure Act would provide guidance to administrative officers in establishing guidelines and properly controlling the election process. In this way, election administration would be flexible enough to meet changing needs and authoritative enough to assure uniformity in procedures.

SIMPLIFICATION OF THE ELECTION CODES

Parse to a minimum the administrative detail contained in the election codes and allow these details to be determined administratively.

In the winter 1963 issue of "State Government," Joseph P. Harris suggested that the right to vote, method of nomination, the form of the ballot, registration of voters, penalties for election frauds, and campaign finance provisions were valid topics for statutory regulation. He went on to suggest that the size of precincts, location of polling places, number and salary of precinct officers, hours of voting, and the precise form of most records used could well be left to local or central administration authorities.

The National Municipal League has pointed out that a degree of centralized responsibility with the maximum feasible degree of administrative discretion would make it possible to clear the clutter of inflexible detail from election laws, detail which most local officials often ignore, usually because they are either ambiguous, contradictory, or just too complicated to be comprehensible.

This suggestion would help simplify elections even without statewide administration, but would work best if implemented in conjunction with the establishment of a statewide election administration. Simultaneous implementation of this section and code consolidation would also be beneficial.

CONCLUSION

Report No. 24 of the Montana Legislative Council, October 1968, in its analysis of municipal elections recommended that "more detailed study of all types of elections and alternatives should be made prior to changing those election procedures." It was as a result of the 1968 study that the 1969 revision of election laws was effected. Yet there was no follow-up detailed study of laws relating to local elections. The subcommittee found that there was neither enough time nor were there enough meetings available to it to pursue a sufficient study of all local election problems and their solution. The subcommittee, however, recognizes the gravity of these problems and recommends that this question be given immediate further attention. Such further study should include consideration of the points made in this report. Responsible election officials at all levels should be involved in the study as it develops. Sufficient time and meetings should be planned to assure thorough consideration of code revisions proposed.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 19, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 175 (first reading copy -- white), respectfully report that Senate Bill No. 175 do not pass.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

B. J. Smith
Amd. Coord.

Ed. J. Smith 1195
Sec. of Senate

38111LSC.SRB

SENATE STANDING COMMITTEE REPORT

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February 19, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 326 (third reading copy -- blue), respectfully report that House Bill No. 326 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

RB 2/19/91
Amd. Coord.

SR 2/19 11:45
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 19, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 183 (first reading copy -- white), respectfully report that Senate Bill No. 183 do not pass.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

134/19/11
Amd. Coord.

SB 2/19 11:45
Sec. of Senate

391110SC.SBB

SENATE STANDING COMMITTEE REPORT

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February 19, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 350 (first reading copy -- white), respectfully report that Senate Bill No. 350 do pass.

Signed: _____

Eleanor Vaughn, Chairman

UB 2/19/91
Amd. Cobrd.

SR 2/19 11:45
Sec. of Senate

3811155C.SBB

SENATE STANDING COMMITTEE REPORT

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February 19, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 358 (first reading copy -- white), respectfully report that Senate Bill No. 358 do pass.

Signed: *Eleanor Vaughn*

Eleanor Vaughn, Chairman

HL 2-19-91
And. Coord.

SR 2-19 1005
Sec. of Senate

381250SC.S11