

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By Senator Eleanor Vaughn, on January 19, 1993,  
at 10:00 a.m.

**ROLL CALL**

**Members Present:**

Sen. Eleanor Vaughn, Chair (D)  
Sen. Jeff Weldon, Vice Chair (D)  
Sen. Jim Burnett (R)  
Sen. Harry Fritz (D)  
Sen. John Hertel (R)  
Sen. Bob Hockett (D)  
Sen. Bob Pipinich (D)  
Sen. Bernie Swift (R)  
Sen. Henry McClernan (D)  
Sen. Larry Tveit (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** David Niss, Legislative Council  
Deborah Stanton, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 130, SB 137, HB 55  
Executive Action: SB 137, HB 55

**HEARING ON SB 137**

**Opening Statement by Sponsor:**

Sen. Gage, Senate District 5, explained SB 137 would transfer the  
duty of coroner education to the Board of Crime Control.

**Proponents' Testimony:**

Gene Kiser, Director of Montana Peace Officers Standards and  
Training Council, spoke in favor of SB 137. The council is in  
favor of taking the transfer being recommended by the Attorney  
General's Office. The council currently tracks through its data  
base, the training of the Sheriffs, Peace Officers, Detention

Officers, communications people and, for the Attorney General's office, the council is tracking the education credits of the county coroner. It has become a problem between the Attorney General's office and the Board of Crime Control as to who they need to contact in regards to their training, whether or not they are certified, or if they will lose their license because of the lack of training. The council has agreed to take the transfer and would become the agency that would certify and monitor the training.

Beth Baker from the Department of Justice said the department requested this bill as a time saving measure to avoid the duplication of the system. The Board of Crime Control now certifies the training of all peace officers in the state. The department feels it would make more sense to allow this existing mechanism to also train the coroners. Presently, the Board of Crime Control tracks coroner training for the Department of Justice because over 50% of the coroners are peace officers in other capacities. The coroners agree with SB 137.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

None.

**Closing by Sponsor:**

Sen. Gage closed.

**HEARING ON SB 130**

**Opening Statement by Sponsor:**

Sen. Henry McClernan, Senate District 34, explained the way the Commissioner of Political Practices is chosen now. The Speaker of the House, the President of the Senate, and the minority leaders develop a list of two to five candidates that they forward to the Governor and the Governor makes an appointment. Later the committee confirms the appointment. That process has caused a controversy and there is a law suit involved. The purpose of SB 130 is to avoid lawsuits in the future. Sen. McClernan is proposing the Governor make his appointment from the list of names provided by the Committee. Now, the list of names forwarded by the committee is for the Governor's consideration. There is no requirement that the Governor choose from that list of names. If we have a committee putting a list of names together the Governor should be required to pick from that list. One lobbyist said this was unconstitutional. Sen. McClernan will refer to Mr. Niss on certain issues. SB 130 would also require the committee comply with Title 2, Chapter 3, parts 1 and 2 which is the open meeting provision.

**Proponents' Testimony:**

Amy Kelley, Director of Common Cause of Montana, gave written testimony (EXHIBIT #1).

Verner Bertelson spoke in favor of SB 130 and gave written testimony (EXHIBIT #2).

Sen. Weldon asked to be listed as a proponent.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Hockett asked if SB 130 could be viewed as unconstitutional. Sen. McClernan said he would defer to Mr. Niss on that question.

**Closing by Sponsor:**

Sen. McClernan said the bill is a step forward and urged support for SB 130.

**HEARING ON HB 55**

**Opening Statement by Sponsor:**

Representative Ervin Davis, House District 53, Lake County, presented HB 55. HB 55 is a bill which would restore a retired member's full normal retirement if a designated beneficiary precedes the member in death.

**Proponents' Testimony:**

Dave Senn, Executive Director of the Teachers Retirement Division, gave written testimony (EXHIBIT #3).

Don Waldron, Montana Rural Education Association, stated he is retired and under the retirement system and this would not affect him personally. The Montana Rural Education Association is 100% in favor of HB 55.

Dave Evenson, Montana University System, stated the University System has created a interunit benefits committee and representatives from all campuses assemble in Helena on occasion to discuss issues of mutual interest regarding benefits. Mr. Senn has discussed this issue with members of this committee and the committee is in support of HB 55.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Weldon asked Mr. Senn since HB 55 reflects a drop in benefits if the members feel that drop outweighs the risk of the options D and E in HB 55. Mr. Senn said the small reduction in benefits out weighs the risk and there is a guarantee that if a beneficiary should die first the increase in benefits will be available to him.

Sen. Weldon asked Mr. Senn if this will affect the future members of the system. Mr. Senn said the bill does not have an effective date, therefore the default would be October 1, 1993.

Sen. Vaughn asked Mr. Senn if this only applies to members of the Teachers Retirement System and if other retirement systems are under the same basis. Mr. Senn said the other retirement systems have different options and they did not want to be part of this bill.

**Closing by Sponsor:**

Representative Davis stated HB 55 does affect those who retire by October 1, 1993. He urged support of HB 55.

**EXECUTIVE ACTION ON SB 137**

**Motion:** Sen. Swift moved SB 137 DO PASS.

**Discussion:** None.

**Vote:** Motion SB 137 DO PASS CARRIED Unanimously.

**EXECUTIVE ACTION ON HB 55**

**Motion:** Sen. Fritz moved HB 55 BE CONCURRED IN.

**Discussion:** None.

**Vote:** Motion HB 55 BE CONCURRED IN CARRIED UNANIMOUSLY. Sen. Fritz agreed to carry HB 55.

EXECUTIVE ACTION ON SB 113

**Motion:** Sen. Burnett moved SB 113 DO PASS.

**Discussion:** Sen. Weldon stated he would oppose SB 113 because it discourages election participation. There are people who only vote in the presidential election. Purging once every four years has worked in the past and will continue to work and it will encourage people to stay on the voting lists.

There was additional discussion on SB 113.

**Motion/Vote:** There was a Roll Call vote. Motion SB 113 DO PASS failed. Sen. McClernan moved SB 113 BE TABLED. Motion SB 113 BE TABLED passed with Sen. Swift and Sen. Burnett voting no.

ADJOURNMENT

**Adjournment:** 11: 30 a.m.

  
\_\_\_\_\_  
SENATOR ELEANOR VAUGHN, Chair

  
\_\_\_\_\_  
DEBORAH STANTON, Secretary

EV/ds

# ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 1-19-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Niss			

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 19, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 137 (first reading copy -- white), respectfully report that Senate Bill No. 137 do pass.

Signed: Eleanor Vaughn  
Senator Eleanor Vaughn, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 19, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 55 (first reading copy -- blue), respectfully report that House Bill No. 55 be concurred in.

Signed: Eleanor Vaughn  
Senator Eleanor Vaughn, Chair



# ROLL CALL VOTE

SENATE COMMITTEE State Administration BILL NO. SB 113

DATE 1-19-93 TIME 11:00 (A.M.) P.M.

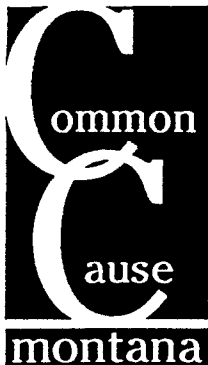
NAME	YES	NO
Sen. Jim Burnett	✓	
Sen. Harry Fritz		✓
Sen. John Hertel	✓	
Sen. Bob Hockett		✓
Sen. Henry McClernan		✓
Sen. Bob Pipinich		✓
Sen. Bernie Swift	✓	
Sen. Larry Tveit	✓	
Sen. Jeff Weldon		✓
Sen. Eleanor Vaughn	✓	

Bessie Stanton  
SECRETARY

\_\_\_\_\_  
CHAIR

MOTION: Sen. Burnett moved SB 113  
DO PASS - Failed - tabled

Exhibit 1



SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 1-19-93

COMMON CAUSE TESTIMONY  
IN SUPPORT OF SB 130

BILL NO. SB 130

JANUARY 19, 1993

P.O. Box 623  
Helena, MT  
59624  
406/442-9251

Madame Chair, members of the Senate State Administration Committee, for the record my name is Amy Kelley, Executive Director of Montana Common Cause.

Common Cause/Montana is a nonprofit, nonpartisan citizen group of more than 800 members working to promote more open and accessible government in Montana.

On behalf of those members, I wish to register our support for SB 130, with the amendments proposed by Senator Weldon.

The Commissioner of Political Practices is the enforcer of Montana's campaign laws. It is the public watchdog, established to ensure public confidence in the political process.

Since the establishment of the office in 1975, frustration has been expressed by political players and the public alike concerning the seeming unwillingness of that office to aggressively pursue potential violations of Montana's campaign laws. Common Cause believes that problem is largely due to the nature of the appointment process. This bill, and the proposed amendments -- which are critical to fulfilling the intent of this legislation -- addresses four problems with the current system:

1. LIMITED SCOPE OF CANDIDATE OUTREACH

The current appointment process does not require the Legislative Leadership to search beyond the individuals that offer their own candidacy. Thus, the only individuals that come forward -- in fact, the only individuals that even know of or hear about the position's opening -- are "political insiders," those who have a lifetime of political connections behind them. This bill would require more extensive outreach through newspaper advertisements, thus reaching such individuals as educators and attorneys not directly involved in the political system.

2. UNCLEAR LINK BETWEEN LEGISLATIVE RECOMMENDATIONS  
AND GOVERNOR APPOINTMENT

Legal questions have recently arisen over whether current statute requires that the Governor's appointment be selected from the list of candidates chosen by the Legislative Leadership -- and that list only. This bill would eliminate any question over that matter, requiring that the Governor choose from that list.

3. DIRECT PARTISAN AFFILIATION OF CANDIDATES

While knowledge of the political system is indeed an important quality in the Commissioner, direct and personal connections to that system becomes a liability in the investigation and pursuit of campaign law enforcement. In short, it is understandable that a Commissioner with "friends" within the system will be loathe to press charges. This bill requires that Commissioner candidates be individuals who have not held partisan public office for at least 10 years previous to appointment.

4. COMMISSIONER NOMINEE TAKES OFFICE  
BEFORE SENATE CONFIRMATION

Currently, the Commissioner term expires December 31, leaving the Commissioner-nominee to take over the duties of that office before being confirmed by the Senate. The obvious problem that arises is that the candidate's approval by the Senate is not guaranteed, which could leave Montana without a Commissioner of Political Practices for an unknown amount of time. Second is the problem of an inexperienced person having to defend the budget of that office before the Legislature in the first week of the session. Keeping the outgoing Commissioner in office until the new official is confirmed would solve both of these serious problems.

5. LACK OF CITIZEN INPUT

Most importantly, while the open meetings provisions of the Montana Constitution and Montana statute require that all meetings of legislative committees -- including the Legislative Leadership selection committee created in 13-37-102 -- be open to public observation, the current appointment process does not allow for public participation.

More than any other appointment, the Commissioner of Political Practices must withstand intense public scrutiny. There must be no question as to whether the appointee will be impartial and unwavering in the enforcement of our political practices laws. This bill would require that at least one public hearing be held during the selection process. That would allow the public to speak out in favor of or opposing potential Commissioner appointees. More information would be disseminated about the Commissioner candidates. And, the Legislative Leadership selection committee would be freed from the appearance of "insider" appointments.

Exhibit #1  
1-19-93  
SB-130

## DISAGREEMENT WITH SB 130'S REFERENCE TO OPEN MEETINGS LAW

As stated earlier, Montana law already requires that all meetings of legislative committees be open to public observation. Common Cause believes that by including the sentence in lines 24 and 25, it could be argued that any statute pertaining to legislative meetings that does not specifically refer to the open meetings law could therefore be exempt. The wording is thus redundant and potentially damaging to other statutes.

\* \* \*

SB 130 would help ensure integrity in the appointment of the Commissioner of Political Practices. The integrity of that office is more important today than it ever has been. What's more, it presents an opportunity to make a POSITIVE CHANGE in an office which, this Committee well knows, has been under direct attack.

Common Cause strongly urge passage by this Committee and the Legislature of SB 130, with the proposed amendments.

Testimony on Senate Bill # 130 by  
Senator McClelland

SENATE STATE ADMIN.  
EXHIBIT NO. 2  
DATE 1-19-43  
BILL NO. SB 130

Madam Chairperson, members of the Senate  
State Administration Committee.

My name is Turner Bertelme and I  
rise in support of S.B. # 130 since  
it will clarify and improve the process  
of selection of the state Commissioner  
of Political Practices.

At the time the office of Commissioner  
of Political Practices was established I  
was serving in the House of Representatives.  
I know this was a sincere effort  
on the part of the state legislature to  
improve the supervision of the election  
process. To a limited extent I  
feel that purpose has been fulfilled.  
However, as in many things we do  
in life and in the legislature it  
has become apparent that the process  
could be improved.

It was for this reason that  
I accepted a position on the citizens  
committee which was established

2.

Exhibit #2  
1-19-93  
SB-130

to solicit candidates for the position of Commissioner of Political Practices. There was a great deal of public dissatisfaction with the process. First, it was felt that the position was not sufficiently advertised to give the many qualified citizens of Montana an opportunity to express their interest. Secondly, it was felt that the interview and selection process was not very thorough and certainly not open to public scrutiny. It was also felt that as it was being conducted the result was generally that a political insider was being selected to fill the position. All of these conditions tended to create some doubt as to the ability <sup>of the position</sup> to be conducted in complete separation ~~from~~ political influence.

We found in our process in which advertisements were placed in

3.

Exhibit II 2

1-19-93

SB-130

major newspapers and on public news casts that there was a great deal of interest in becoming involved in the process. After many inquiries we received 32 applications for the position. These applicants were of the highest caliber in experience, education and ability. A careful review of resumes was made and 7 candidates were selected for personal interviews to which the press was invited. From these talented candidates the committee selected three to present to the legislative leadership for their close scrutiny. One candidate withdrew from the competition. The leadership accepted one outside application ~~but no~~ <sup>but no</sup> public meeting was held nor was an opportunity for personal interviews with the candidate provided. Those three candidate names were given to the Governor and again a political insider was selected.

for the position

It would be my sincere hope that with passage of S. B. 130 we would bring daylight to the process and hopefully reduce the amount of political influence which many citizens believe has become too evident in the selection of a Commissioner of Political Practices.

The Commissioner of Political Practices is an important and necessary part of good government. It is my sincere concern that unless we improve the process public pressure will build to eliminate the office and that would be very unfortunate. Let us make the process and the position better and strengthen a very important part of our government structure. Again I would ask your vote for and support of Senate Bill 130.

Thank you.

Terence Bertelsen

1800 Winns Ave.

Helena, MT, 59601



TESTIMONY  
 Teachers' Retirement Board  
 Presented by David L. Senn  
 January 19, 1993

SENATE STATE ADMIN.

EXHIBIT NO. 3DATE 1-19-93BILL NO. HB 55Bill Title

"An Act restoring to a retired member of the Teachers' Retirement System the members's full normal form of retirement allowance if the beneficiary designated at the time of retirement for certain optional retirement allowances precedes the member in death; amending section 19-4-702, MCA."

Purpose

Under current law, in lieu of benefits payable for life only, a retiree may elect one of five specific options, A through E, or F, an option of the member's design which must be an actuarial equivalent benefit. However, should the beneficiary die before the retiree, the retiree's monthly benefit either continues at the optional amount or is further reduced if the member elected option D or E. This legislation provides for a "Pop-Up" feature that would automatically restore the retiree's monthly annuity to the full "Normal Form" amount if the designated beneficiary precedes the retiree in death.

With the pop-up feature options D and E would be repealed and, to provide funding for this proposal, the factors under option A, B, and C will be slightly smaller than current factors (1% to 2%). This proposal will have no affect on current retirees or on benefits effective prior to the effective date of the legislation.

Retirement Options

- OPTION A: Joint and Full to Beneficiary  
 Benefits are paid during the member's lifetime and upon their death, their beneficiary continues to receive the same monthly benefit during the remainder of his/her lifetime.
- OPTION B: Joint and One-Half to Beneficiary  
 Benefits are paid during the member's lifetime and upon their death, their beneficiary receives one-half of the member's monthly benefit during the remainder of his/her lifetime.
- OPTION C: Joint and Two-Thirds to Beneficiary  
 Benefits are paid during the member's lifetime and upon their death, their beneficiary receives two-thirds of the member's benefit during the remainder of his/her lifetime.
- OPTION D: Joint and One-Half to Survivor  
 This benefit is payable while both the member and their beneficiary are living. Upon the death of either, the survivor will receive one-half of the monthly benefit during the remainder of his/her lifetime.
- OPTION E: Joint and Two-Thirds to Survivor  
 This benefit is payable while both the member and their beneficiary are living. Upon the death of either, the survivor will receive two-thirds of the monthly benefit during the remainder of his/her lifetime.

EXAMPLE**MEMBER AND BENEFICIARY SAME AGE**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	89.37%	94.39%	92.65%	100.00%	96.19%
Proposed Law	<u>88.10%</u>	<u>93.68%</u>	<u>91.74%</u>	NA	NA
Difference	1.27%	0.71%	0.91%		

**MEMBER TWO YEARS OLDER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	88.42%	93.86%	91.97%	98.48%	94.88%
Proposed Law	<u>87.70%</u>	<u>93.45%</u>	<u>91.45%</u>	NA	NA
Difference	0.72%	0.41%	0.52%		

**MEMBER FIVE YEARS OLDER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	87.05%	93.08%	90.98%	96.53%	93.15%
Proposed Law	<u>86.12%</u>	<u>92.54%</u>	<u>90.30%</u>	NA	NA %
Difference	0.93%	0.54%	0.68%		

**MEMBER TWO YEARS YOUNGER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	90.33%	94.92%	93.34%	101.72%	97.62%
Proposed Law	<u>88.91%</u>	<u>94.13%</u>	<u>92.33%</u>	NA	NA
Difference	1.42%	0.79%	1.01%		

**MEMBER FIVE YEARS YOUNGER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	91.75%	95.70%	94.34%	104.72%	100.00%
Proposed Law	<u>90.12%</u>	<u>94.80%</u>	<u>93.19%</u>	NA	NA
Difference	1.63%	0.90%	1.15%		

Percentages are a percent of the full "Normal Form" amount available to the member. Under the Normal Form, monthly benefits terminate with the death of the member.

SB 113

Amend: YES  
PASS: NO

A. Fitz

DATE 1-19-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: ~~137~~ SB 137, HB 55, SB 12

Name	Representing	Bill No.	Check One	
			Support	Oppose
Vernon Bostelmann	Self	130	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GENE KISER	MTBCC	137	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Beth Baker	Dept of Justice	137	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dave Evenson	U System	HB 55	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Seim	Teachers' P. Assn (Dover)	HB 55	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Don Waldron	MREA	HB 55	<input checked="" type="checkbox"/>	<input type="checkbox"/>
AMY KELLEY	Common Cause	SB 130	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Malone	M.F.T.	HB 55	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY