

MINUTES

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

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on January 22, 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. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)

Members Excused: Sen. Larry Tveit, Sen. Harry Fritz

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 147, SB 174, SB 176
Executive Action:

HEARING ON SB 174

Opening Statement by Sponsor:

Sen. Weldon, representing Senate District 27, explained SB 174 would provide for citizen enforcement of election in campaign practice laws. This bill went through the last legislative session in the form of HB 535 sponsored by Rep. Toole of Missoula. It passed successfully in both houses but was vetoed by the Governor. SB 174 provides standing for a citizen to bring before a court a civil action to enforce certain campaign laws. The first step in the process is there must be a violation of reporting or contribution expenditure laws. A complaint must be given to the Commissioner of Political Practices. The Commissioner receives and reviews the complaint and if necessary asks for clarification or additional information from the

complainant. Under existing law, any citizen can file the complaint with the Commissioner's office. Upon review of the complaint the Commissioner can dismiss the complaint or investigate it under the authority that already exists. If the Commissioner determines there is a violation the Commissioner can request of the appropriate county attorney to prosecute the violation. If the County Attorney does not act with 30 days it goes back to the Commissioner to prosecute the violation. That is where most of the problems of existing law lie. The Commissioner of Political Practices does not have the resources to prosecute or follow up on the alleged violations. At that point this law would take affect. A citizen would notify the Commissioner or the County Attorney in writing of the violation in reporting or expenditure contribution laws. If within 50 days the Commissioner or the appropriate county attorney does not take action or fails to dismiss the complaint the citizen may bring civil action in the court in the name of the State of Montana. Finally if the citizen prevails he or she will be reimbursed for the cost incurred. If the court finds the suit was brought without reasonable cause the citizen is responsible for the defendant's cost. The law provides for an amount of liability of \$500 or three times the violation amount whichever is greater. The disposition is as follows: If the action is brought by the county attorney half goes to the county attorney and half goes to the state's general fund. If it is brought by a citizen or the Commissioner the full amount goes to the general fund. The power of government originally stems from the people so this provision reinforces that power by bringing people directly back into the process of enforcing campaign laws. Campaign law is the beginning point of the democratic system. Therefore, campaign laws are significant and this is an avenue to see that campaign laws are enforced. If after the entire process the Commissioner or the County Attorney fails to take action or fails to dismiss the action a citizen can come in with his own resources and attempt to prosecute the offender. Approximately 10 other states also recognize legal standing for citizens to bring action to enforce campaign laws. The exact legislation made it through both houses last session and was vetoed by the Governor. The reasons the Governor vetoed it are as follows: 1) it degrades the civil and criminal prosecution system, 2) the system may not work because of the lack of appropriate resources, 3) there was no faith given to the county attorney or the commissioner, 4) this might set up a system for vigilante justice or political harassment. The Governor's concerns about potential harassment are, although legitimate, not necessarily followed through. The power that we have here stems from the people and by bringing citizens directly into this process we reinforce and recognize the significance of that provision of government.

Proponents' Testimony:

Amy Kelley, Director of Common Cause/Montana, gave written testimony in support of SB 174 (EXHIBIT #1).

Jonathan Motl, attorney with the firm Reynolds, Motl, Sherwood and Wright in Helena, spoke as an individual in favor of SB 174. Mr. Motl served as a member of counsel to a volunteer initiative committee during the 1988 election cycle. That was the initiative committee that worked in favor of passage of an initiative law that would have established a deposit legislation system in Montana where a dime deposit was placed on beverage containers. That bill was opposed by the people who manufactured those containers because there is a profit to be made in selling those containers. As part of that Mr. Motl filed several complaints with the Commissioner of Political Practices regarding the way money was coming into the state and the way money was being used. The complaints dealt with a variety of items concerning whether the money was actually being reported as being spent as an expenditure against the bill and whether it was being reported timely. Those complaints were filed during the election cycle in 1988. The response to those complaints was received by me, not directly, but indirectly in July of 1992 when the Commissioner prepared her annual report for 1988. The report was three years late. The response to those complaints was set out in that report as part of the annual report. There was no letter sent back to me. There was no acknowledgement of the complaint. Initiatives don't received the same attention as a campaign for political office does, but Mr. Motl volunteered for that effort. He took a considerable amount of his own time to work on it. Had this type of enforcement been in place he would have followed up on it. This law would address a need like the one described.

Dwight Welch, member of the Board of Directors of MontPIRG, gave written testimony in support of SB 174 (EXHIBIT #2).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Sen. Weldon stated this bill is a significant step forward. For a variety of reasons the people of this country feel apart from the political process. They are the power of the political process and this bill would enable them to be part of the enforcement of good campaign finance and reporting laws. Sen. Weldon urged support of SB 174.

HEARING ON SB 147Opening Statement by Sponsor:

Sen. Brown, Senate District #2, appeared as the principle sponsor of SB 147. SB 147 is an act which would provide for the Secretary of State to compile and maintain a list of all registered electors in the state; requiring county officials to forward voter registration lists to the Secretary of State; and providing that the Secretary of State may furnish a current list of registered electors to any elector for noncommercial use and may charge for the cost of providing the list. This is not a new concept to the Legislature. There is a fiscal note attached to the bill. There is also an amendment.

Proponents' Testimony:

Doug Mitchell, Secretary of State's Office, appeared in favor of SB 147. This bill will create efficiencies in the way data is managed. Most states do provide a central computer access for voting records. In some instances they have been able to tie all Clerk and Recorder offices together on one system. They have a statewide file because everyone is using the same system. To create that in Montana it would be burdensome both for the clerks and for the general fund of either counties or state government. This bill would create a central voter file in the office of the Secretary of State. That is how it is handled in 18 of the 50 states in the country. They have a central file that is managed by the Secretary of State and that is what this bill would do. Currently, people register to vote by signing a card, turn it into the appropriate election administrator and they put your name on the voter roles. They keep those roles and as people are added, move or change, they take people off, add them, change people's name, and when it comes time for election they prepare a final register so they can do their precinct registers, decide how many ballots they need to print and get ready for election day. One of the other things they do is mail the voter information pamphlet. The Secretary of State's office prints the pamphlet and send them to the Clerk and Recorders. It is their responsibility to process it for mailing and in fact, pay for the mailing. Montana is the only state in the country that gives that burden to the election administrators. The Secretary of State is proposing to prepare and to mail the pamphlets from the lists provided from the Clerk and Recorders office. It would be done at the very lowest rate possible from the post office and it would ensure prompt delivery by taking out the middleman. It would also reduce expenditure at the county level at the same time. It creates an efficiency in managing the voter information pamphlet. As an example, in the next two weeks there will be a request to place an issue on a special election ballot for June 8. The sales tax bill is well over 200 pages. That complete text has to be sent to every registered voter. The Clerk and Recorder's have to pay for it. This bill seeks to create a centralized list so that access to that information is on a level

playing field. You don't mandate the political parties that have a lot of money to spend on computer applications are the only one that can accumulate a statewide voter file. This bill would make it possible for any interest group to have access to the same information as Republicans and Democrats currently have. It provides a check on potential voter fraud. One of the concerns is someone can register at a number of different places and drive around and vote. Under a statewide voter file, we can accumulate all of the people and if we find a number of "Zachariah Smiths" with the same birthdate and the same gender, we can contact the Clerk and Recorders and alert them to a potential problem. If fraud exists, this gives a better tool to address it. It creates an efficiency with the voter information pamphlet. The Montana Legislature has placed more items on the ballot, called special election, where substantial financial burdens have been placed on the clerk and recorders. The substantial amount of the fiscal note is in postage. Approximately \$150,000, \$109,600 of it is in postage. The rest of it is in computers and a small amount of FTEs to manage the system, all of which would be on a cost recovery basis from the fees charged to sell the lists. This would be general fund income as well as general fund expense and within 3 years we assume the general fund income will exceed general fund expenditures with the exception of postage. There is a way to have the Clerk and Recorders pay for the postage without killing the centralized voter file bill. That is to allocate whatever expenditures the state makes on behalf of clerks in the area of postage and bill them for it. We don't support that but it is an option. Technology will pass us by at some point. We have been passed by in trying to centralize all Clerk and Recorders on the same system. All of the Clerks are on their own systems, they work well, and to change them would be cost prohibitive. It's time to do a centralized voter file system. We can do it effectively and efficiently and can level the playing field and save the counties money.

Darrel Holzer spoke on behalf of the Montana AFL-CIO in favor of SB 147. The key issue is the matter of "leveling the playing field." Anyone who has had an instance of trying to accumulate the information as it is currently available is aware of the enormous difficulties involved in that process. The fact that some counties provide a hard copy, some are on diskette, some are on magnetic tape, ultimately once you do acquire that information it has to be reformatted once again in order to compile a statewide file that is in a useable format. It's not only time consuming, it is extremely costly. Some Clerk and Recorders are extremely overprotective of their information even to the point where some seem to be selective as to what information they will give to whom and that would be eliminated by a centralized voter file where anyone will have access to that information. It's time that we get up to speed with technologies and he urged support of SB 147.

Tootie Welker, Montana Alliance for Progressive Policy, gave written testimony (EXHIBIT #3).

Marilyn Frazier, new Executive Director of the Montana Republican Party, spoke in favor of SB 147. She said Sen. Brown and Doug Mitchell have explained all of the reasons we are in support of SB 147 and at the same time, we understand the partisan nature of the Secretary of State's office. That is why the Republic Party supports the amendment to SB 147. We understand the concern of the Clerk and Records and their authority to maintain their own file. The legislation still requires the counties to maintain their own lists and to provide a copy to the Secretary of State. We urge support of SB 147.

Linda Lee, the Executive Director of MontPIRG, wanted to go on record that MontPIRG definitely supports this bill to increase the efficiency of the voter registration files. It makes a lot of sense. MontPIRG is an organization that is very involved in voter registration.

Opponents' Testimony:

Don Byrd, Montana Association of Clerk and Records, spoke in opposition to SB 147. A few days ago this committee tabled bill SB 113, that would have purged the registered voters after every general election. If you pass SB 147 you will perpetuate and add to the number of registered voters who no longer live at that address. If this is being done in the name of state ballot issues, this will cause monumental costs. If 10% of the people no longer live there every year, and you send out a state ballot, you're talking about 440,000 registered voters, 10% are not going to be there. So we're talking about a loss to the state of between \$40,000 and \$60,000 for ballot issues. If this committee deems it proper to pass SB 147, we recommend that you take from the table SB 113 and pass that also. If you're talking about bringing Montana into the 21st century you should do that.

Betty Lund, Clerk and Recorder and Election Administrator from Ravalli County, spoke in opposition to SB 147. Two years ago we supported centralized voter registration from the Secretary of State's office. We thought it was a good idea. Since then some things have come to a light which show that perhaps it is not a good idea. We stand behind same day registration without the centralized voter registration files from the Secretary of State's office. We talk about cost. In Ravalli County, when the voter information pamphlet comes out, I work on it myself and I can find out if a person has moved. In larger counties like Yellowstone that can't happen but in the smaller counties it's easier to keep track of. We do purging as we send voter information pamphlets out because we know who's moved and who's died. This is one of the benefits of a smaller county. If we are the only state in the United States where the counties pay for the voter pamphlet, we need to talk to the Secretary of State's office about that. It is an expensive project. We had a

person addressing voter fraud. If you find 14 Betty Lunds the Secretary of State's office will have to call each Betty Lund because there is no way to find out if there are 14 Betty Lunds in the State of Montana. This would be an expensive project to figure out if I have registered in all 56 counties. Because having no social security number of the voter registration I could vote in all 56 counties. Also because of the programs to register voters we registered 3,000 people in Ravalli County. I ran poll books the Sunday before the election and could not comply with this bill in sending a current file to the Secretary of State's office. It could not happen in my county or other counties. I don't believe the Secretary of State can get a current list to the AFL-CIO and to the political parties. When they get them from the Clerk and Recorders they are as current as they can possibly get. I think this is forerunner of a more aggressive voter registration activity. The Clerk and Recorders urge defeat of this bill.

Geraldine Nile, Rosebud County Clerk and Recorder, spoke in opposition of SB 147. The half time FTE on the fiscal note to handle this job is not possible. Another point that Doug Mitchell mentioned as a selling point to the counties that are strapped for money is that the state is also strapped for money. It would just be from one hand to another, who would pay the postage on this bill and the 200-page sales tax bill. According to this bill, it would not go into effect until 1995 so it wouldn't do us any good for this pamphlet.

Sue Haverfield, Clerk and Recorder from Flathead County, spoke in opposition to SB 147. She added in the 56 counties in the State of Montana there are many means of voter registration files, from handwritten, to mainframe computers. There also is a time frame that would be hard to meet. If we were all on a centralized computer system then we might be able to get this work done and send it to the Secretary of State's office. This bill is premature. The counties are not at that point yet. The counties cannot afford that kind of equipment and I don't think the State of Montana is going to give it to us. As far as efficiency, in Flathead County, we run address labels and we multiple label the voter registration pamphlets so if there are multiple voters at one address, one pamphlet goes to those voters rather than four pamphlets to the John Smith family and they are all registered to vote. We are doing it as efficiently as we can. Our postage cost is about \$7,000. I agree it would increase the staff of the Secretary of State's office more than one halftime FTE. I don't feel we are ready for this bill and urge your defeat of SB 147.

Shelley Cheney, Gallatin County Clerk and Recorder and Election Administrator, stated if this bill passed there are some major concerns with Gallatin County. On page two, line 11, of the bill, she would like to keep the clause "when possible" in the bill. If the requirements are included in the bill the software will have to be reprogrammed in Gallatin County and update 29,000 registered voters. She is also concerned with the deadlines on

page 3. In Gallatin County the election system is on the county mainframe. Everyone needs to use the system at the same time. She would like a computer system in her office strictly for elections. She asked if the list to the Secretary of State's office was supplied to them free. There are financial constraints in local government as well as state government.

Questions From Committee Members and Responses:

Sen. Weldon asked the Clerk from Gallatin County about the difficulty of supplying the Secretary of State's office with the information required. Ms. Cheney stated some of the information is hard to get from the voters.

Sen. Weldon asked Mr. Mitchell about the concerns of the Clerk and Recorders (the cost, deadlines, and the prematurity of the bill). Mr. Mitchell said the Secretary of State's office is willing to work with the clerks on the deadlines. He stated if they could make changes in the bill to bring about harmony they would do that. This is the same bill the clerks supported two years ago.

Sen. Hockett asked Ms. Frazier about her suggested amendment. Ms. Frazier referred to page 6, line 8 following the word "state" and said she is in support of that amendment. Sen. Weldon stated it was an amendment Sen. Brown is supporting and that amendment is not here at this time. Sen. Brown stated the Department of Justice provides motor voter information to both political parties on a regular basis. The amendment would require the Secretary of State to do the same thing to the two political parties provided, as in the case of the motor voter registration, that they pay for it. I discussed this with Mr. Mitchell and it is agreeable. Mr. Mitchell said there could be a scenario under which a Secretary of state receives a request from the Democratic Party and the Republican Party on the same day and somehow one of those parties gets their file on that day and the other one doesn't. They provided a requirement that once the list is completed the Secretary of State shall provide to both parties.

Sen. Burnett asked Sen. Brown if he met with any of the Clerk and Recorders. Sen. Brown said he did not. He understood the Clerk and Recorders had supported it two years ago and he didn't think that was something he had to do.

Sen. Swift asked Mr. Mitchell about reimbursement to the counties. Mr. Mitchell said the Secretary of State's office can buy the list from the counties. We will amend the fiscal note to have the Secretary of State's office buy the list. Sen. Swift asked about the deadlines and the difficulty in meeting them. Mr. Mitchell said there are two timelines in the general election. One of the lists will not be completed until after the election, but it would give them the completed list for that particular election. We will work with the clerks. It is not good policy to have a bill that the clerks cannot meet. This is

the same timeline that they supported in 1991.

Sen. Swift asked Mr. Mitchell about the 30-day time frame lag of numbers of electors that you will not have. You will not have a complete list. Mr. Mitchell said there is not much the Secretary of State's office can do about not having a complete list. In any moment in time even when any list is given to them, by the time they walk down the steps they will not have a complete list. The Secretary of State's office will have a complete list per the time of the deadlines. There is no way outside of having a bill that would have direct computerized access to all 56 counties linked into our office. We will work with the clerks to have a complete list sent to us. If the clerks have a different idea the Secretary of State's office will work with them to find the best dates for transmission of those lists.

Sen. Swift stated this legislation will increase costs both at the local and the state levels.

Sen. McClernan stated he had gone to a lot of county seats and bought these lists in the past and no one ever asked him if he was using them for commercial or political purposes. He asked Mr. Mitchell how he would deal with this. Mr. Mitchell said he would, in the application for purchase, have the individual authenticate that they were using them for noncommercial uses.

Sen. Pipinich asked if any thought had gone into this bill about data linking the counties and the Secretary of State's office. Mr. Mitchell said that was a good idea. He purchased the file from the Montana Democratic Party. It comes in at least 30 different formats from computers that are completely incompatible. The easiest way to get the list from Petroleum County is to call them and they will read it to you over the phone. Sen. Pipinich stated the Secretary of State's office was, at one time, headed in this direction. They purchased a WANG system that crashed. The Legislature put \$250,000 into that system which is not working. Mr. Mitchell clarified that no State of Montana dollars went into the WANG system. There was a commitment to make State of Montana dollars go into the WANG by Secretary of State Waltermire. We voided the WANG system, successfully sued them, and in fact made money on the deal. Sen. Pipinich asked Mr. Mitchell that instead of everyone in the state buying different systems that there should be some requirement that all counties, all sheriff's offices, and everyone buy systems that will work with the state's. Mr. Mitchell stated he could not agree with Sen. Pipinich more. But it is a major financial commitment. This bill does not prevent that. If we had the bill that said every county should buy a new computer system so they would be compatible he would not be here.

Sen. Vaughn asked Mr. Mitchell in regard to the last registration are the lists going to be available to get the pamphlets out to the people or are the clerk and recorders going to be responsible then to mail pamphlets to the late registrations that they can't

get the list into the Secretary of State's office. How can all those people get their copies of the voter information pamphlets. Mr. Mitchell said the office will work with the clerks to try to find the answer to that. He would have to look at how substantive it is. The initial response to that is they would try to accumulate labels or some other information from clerks to mail them centrally from Helena.

Closing by Sponsor:

Sen. Brown said he winced when the topic of same day registration came up. When James A. Kilpatrick wrote a column about it he referred to it as the "bum's rush" bill. The worst nightmare is that busloads of derelicts going to the polls on election day. That is not what he has in mind with this bill. This proposal might make this concept easier to implement, but this doesn't do that. This bill would bring about a fair and more open system in terms of providing voter registration lists to the groups and organization who would be interested in them. Political parties now have the time and the resources to compile the lists on their own. This is a more sensible and efficient way to accomplish that purpose. It also makes it possible for other groups in the political spectrum to have access to the same information. Greater cost efficiency can be had if you bulk mail from the state level than at the local level. This bill would also reduce the possibility of fraud. It would cut down on the possibility of a person being registered at more than one county. The cost on the fiscal note is attributable to the cost of postage. The Secretary of State can charge about \$10,000 a copy for the list. So if the Democrats and Republicans buy each year, that's probably \$40,000 in the first biennium. This is an ongoing thing. It gives an opportunity to provide the service more efficiently, more openly and more fairly. It gives an opportunity to pay for it on into the future. It is a good bill.

HEARING ON SB 176

Opening Statement by Sponsor:

Sen. Bianchi, explained SB 176 would reform the initiative process in Montana. Oftentimes the initiative process has been controlled more by out-of-state interests than Montanans. Currently Montana has no law governing false political practice advertising in the initiative area. Direct mail advertising is increasing and not subject to public discourse and review like other campaign methods are. By requiring that these materials be reviewed by the office of political practices, if there is false accusations, this could be caught. This does not prohibit groups like the Montana Education Association or some unions to make mailing to their members. They could continue with their stands on different issues to their members. The bill also requires random auditing of accounts of campaign treasurers or political

committees. If the initiative groups know of potential audits they will be more willing to comply with the laws of Montana. The .2 of 1 percent will give the office of political practices the money to be able to carry out the audits without using general fund money. SB 176 would limit out-of-state contributions. When out-of-state interests dominate the state to the extent that money buys access to the public, fate becomes unbalanced. The result is Montana citizens lose control of the process. The bill does not limit the amount of money spent on a ballot campaign. It does limit free speech. It puts a limit on contributions. It is not unconstitutional. It limits the out-of-state contributions.

Proponents' Testimony:

Rep. Hal Harper, District #44, spoke in favor of SB 176. This bill would limit aggregate contributions of out-of-state interests to less than half of the amount of money that can be spent on the ballot issue. A number of ballot issues that deal with constitutional issues have been heard. This will be landmark legislation. Montana is in the forefront of campaign direction and reform and that lead should be maintained. It is a good bill.

Amy Kelley, Director of Common Cause/Montana, spoke in favor of SB 176 and gave written testimony (EXHIBIT #8).

Dwight Welch, Montana Public Interest Research Group (MontPIRG) gave written testimony in favor of SB 176 (EXHIBIT #9).

Jonathan Motl, attorney and member of the Board of Directors of Common Cause, appeared as an individual in support of SB 176. He worked in support of I-113, the bill that would have placed deposits on beverage containers. He also worked in support of I-115 in 1990 that would have increased tobacco tax in an effort to lower the use of tobacco products and decrease the health care costs associated with increase use of those products. The initiatives were defeated. Both initiatives involved extremely heavy out-of-state money. The model for this bill is the statute that is already in place, 13-37-218 which was the first bill in the nation that regulates the aggregate amount of money that political action committees can contribute to a campaign. The constitutional path that was followed is the fact that it regulates the amount of money a candidate may receive, not the amount of money that an out-of-state interest can give.

Linda Lee, Executive Director of MontPIRG submitted a letter from Will Wood (EXHIBIT #10).

Jim Jensen, Executive Director of the Montana Environmental Information Center, spoke in favor of SB 176. MEIC has been involved with the initiative process since 1973. Out-of-state money has a dramatic impact in this process. This is landmark legislation and he urges support of SB 176.

Earl Thomas, American Lung Association, spoke in favor of SB 176 and gave written testimony (EXHIBIT #11).

Opponents' Testimony:

Charles Walk, Executive Director of the Montana Newspaper Association, rose in opposition to SB 176 and gave written testimony (EXHIBIT #12 and #13).

Jerome Anderson, attorney, representing the Tobacco Institute, spoke against SB 176. There is a substantial amount of money from out-of-state interests. Candidates for political offices in Montana have spent substantial amounts of money in their political races. All of these candidates had large out-of-state contributions. Everyone has to recognize in every campaign, that it is necessary to find a means to effectively communicate with the electorate. In Montana the only effective way to communicate with the electorate is through radio, television, and newspapers. This takes a lot of money. This bill raises constitutional issues. The issues of prior restraint, and the issue of free speech. The Supreme Court has issued opinions regarding efforts to inhibit political speech in previous statutes and previous activities in the United States. Government has no power to proscribe political speech as false. The Supreme Court has stated there is no such thing as a false idea. In this bill the Commissioner of Political Practices would be set up as a censor of political campaign material to be distributed by mail to more than 50 people. The Commissioner would decide what is false. The bill doesn't set standards as to what is to taken into consideration. We, in Montana, have guarded the right to free speech. This bill would restrict the right.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Sen. Bianchi explained that the advertising people will oppose this bill, because it will bring less money into their business. There was questions raised about Sen. Baucus' campaign. In the Governor's race in Montana there was not a large disparity in the amount of money raised. There has been a Supreme Court decision that says you can't knowingly put out false information under the first amendment. Sen. Bianchi urged Do Pass on SB 176.

SENATE STATE ADMINISTRATION COMMITTEE

January 22, 1993

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ADJOURNMENT

Adjournment: 12:10 p.m.



SENATOR ELEANOR VAUGHN, Chair



DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE

STATE ADMINISTRATION

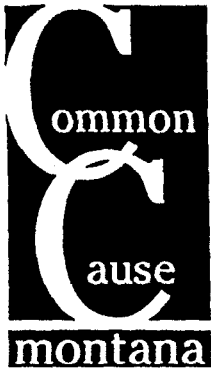
DATE

1-22-93

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 STATE ADMIN.
EXHIBIT NO. 1
DATE 1-22-93
BILL NO. SB 174

COMMON CAUSE TESTIMONY
IN SUPPORT OF SB 174
JANUARY 22, 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 Common Cause/Montana.

On behalf of more than 800 Montanans who are members of Common Cause to help promote more open and accessible government in Montana, I register our support for SB 174.

The idea of allowing citizens to enforce Montana law is not a new concept. The Montana Unfair Trade Practices and Consumer Protection Act allows a consumer to bring an injunctive action against a violator in place of the Department of Commerce. The Lobbying Disclosure Act also contains a "citizen action" provision.

The concept is simple: if the Commissioner of Political Practices receives a formal complaint from a citizen regarding an alleged violation of Montana political practices laws, and determines the case has merit but does not have the time or funds to handle the case, a citizen then has legal standing to bring an injunctive action against the alleged violator.

This Committee has already heard testimony regarding frustration over the inability of the Commissioner's office to aggressively enforce Montana's campaign laws. Given the limited budget of the office and the tremendous amount of data it must collect and inspect, that should be no surprise.

This bill provides a very positive step toward increasing enforcement of Montana campaign laws -- at no extra cost to the state and no additional burden to the Commissioner's office.

It is important to note that, with this bill, the Commissioner of Political Practices retains the right to dismiss a frivolous complaint, to refer the case to a county attorney, and to pursue action him or herself. If enacted, the bill also would grant the Commissioner right to turn the case over to the citizen party.

Commissioner Colburg testified in 1991 that she viewed this bill as a way to spur agencies to move on a matter perceived as important by a citizen party. She also noted that the number of complaints filed with her office in 1988 -- 19 -- was more than the total number of complaints filed in the combined terms of her two predecessors. In 1990 the office received 21 complaints.

SB 174 would help address this general upward trend in the number of political practices complaints filed with the Commissioner's office, while strongly discouraging or outright preventing the filing of frivolous lawsuits.

First, the Commissioner and/or county attorneys could determine that the case has no merit, and simply dismiss the suit. In that event, the citizen would have no legal standing to pursue the case.

Second, if the case is deemed to have merit, and a citizen follows through with the suit, the court has the ability to determine that the case was "brought without reasonable cause." In that event, the citizen must pay all costs of trial and attorney fees incurred by the defendant.

As an added benefit, if a citizen action is successful, the entire amount of the penalties recovered (after reimbursement for attorney fees) would be paid to the state general fund.

Montana would not be alone in giving citizens legal standing in pursuing violations of campaign laws. Nine other states -- CA, HI, MA, MO, PA, WI, NC, NB, and UT -- have similar provisions.

SB 174 would help ensure that violations of Montana's campaign laws are addressed in a timely fashion. It paves the way for a new era of increased and effective enforcement of those laws.

Common Cause strongly urges this Committee to vote a "do pass" on SB 174.

MontPIRG

Montana Public Interest Research Group

360 Corbin Hall □ Missoula, MT 59812 □ (406)243-2907

1-22-93
SB 174

1/22/93

Testimony In Support of Senate Bill 174

Dear Senator Vaughn and Members of the Senate
State Administration Committee:

The Montana Public Interest Research Group (MontPIRG) is a non-profit, non-partisan research and advocacy organization located on the University of Montana campus. MontPIRG represents 2500 student members and 1500 community members statewide.

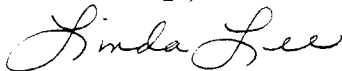
MontPIRG urges you to pass this Citizen enforcement bill. For Montana citizens who are involved with and concerned about the political process, this bill helps assure we have an option if violations of our campaign laws are not dealt with in a timely fashion.

As the law is written now, the county attorney or the Commissioner of Political Practices are the only people in the state authorized to enforce these important laws. The office of the Commissioner is under funded and there have been problems in the past with the office following through on violations. The option of citizen enforcement will help ensure enforcement and can positively influence compliance.

Ultimately, the power of Democracy rests in its citizens and it is appropriate Montana citizens have the ability to make our Democracy work.

Please support this important legislation.

Sincerely,



Linda Lee
MontPIRG Executive Director

Students and citizens working for educated consumers, a clean environment and a more responsible government.



Montana Alliance for Progressive Policy

P.O. Box 961 Helena, MT 59624 (406) 443-7283

Testimony SB 147
Statewide Voter File

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 1-22-93

BILL NO. SB 147

Madame Chair, Members of the State Administration Committee

For the record my name is Tootie Welker. I'm here representing Montana Alliance for Progressive Policy. MAPP is a coalition comprised of women, low-income, senior, Native American, education, labor and conservation groups.

We are here in support of SB 147.

As I've stated many times before, MAPP is very involved in voter reform, citizen participation and voter registration work. We feel that we must make it as easy as possible for citizens to take part in their government.

Our reasons for supporting this bill have been reflected by the secretary of state's office. We are moving into the 21st century, the computer age. Police, DVM and so on are connected, through computers. In fact, we need to get all the counties connected, by computers, through modems.

But we also support it for we feel it will help us realize our goal of same-day voter registration. We feel this is necessary if we are going to remove the restrictive barriers to voting that we have in place. Having a statewide voter file housed at the secretary of state's office will help eliminate the "monster under the bed", voter fraud. Right now, voter fraud would actually be very easy. I could register in all 56 counties, request absentee ballots from all 56 counties and mail them in. And no one would know! Right now, clerks only check with the county the voter used to live in, if they even indicate that. So I say, if the clerks are really concerned about voter fraud, they should be supportive of this bill. By sending the names to the secretary of state's office, it would be possible to locate those folks who are registered in more than one county.

Dear Senator Vaughn,
I am writing to ask for your support of SB 147. A Central Voter Registration file would bring our now antiquated systems up to-date. The County Clerk and Recorders are often selective about the information they release. Thank you for your consideration.


SENATE STATE ADMIN.
EXHIBIT NO. 4
DATE 1-22-93
BILL NO. SB 147

Sincerely
Sandy Ritsche

Dear Ms. Vaughn. SB-147

Move this Bill forward, it is a must for the State of Montana. Lets move into the future

SENATE STATE ADMIN.
EXHIBIT NO. 3
DATE 1-22-93
BILL NO. SB 147


3200 5th Ave. So
Great Falls, MT

Dear Senator Vaughn:
I am writing in support of SB 147. This legislation would go a long toward modernizing our current voter registration system. It would also assure access and fairness to information that is recorded and made public. Thank you for your consideration of this important bill.

SENATE STATE ADMIN.
EXHIBIT NO. 4
DATE 1-22-93
BILL NO. SB 147

Sincerely
Alan R. Clark

Statewide Reg
Intersect

Statewide Reg Intersect
SENATE STATE ADMIN.
EXHIBIT NO. 1-22-93
DATE 1-22-93
BILL NO. SB 147
Please Support
SB 147 this
A start for
citizens of mt
Thanks for
Time



SENATE STATE ADMIN.
EXHIBIT NO. 8
DATE 1-22-93
BILL NO. SB 176

COMMON CAUSE TESTIMONY
IN SUPPORT OF SB 176
JANUARY 22, 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 Common Cause/Montana, a nonpartisan citizen group of more than 800 members working to promote open and accessible government.

On behalf of those members, I register our support for SB 176, limiting out-of-state contributions to Montana ballot issue campaigns.

As you know, the initiative process is the way in which Montanans can enact laws when the Legislature does not or cannot. It is a fundamental piece of our democratic lawmaking process.

In recent years, however, the ability of citizens to enact legislation through the ballot has been severely hampered by out-of-state interests providing large amounts of money to support or oppose ballot issues. That money buys television, radio and newspaper ads, sophisticated polls, and carefully targeted direct mail campaigns that can reach every voter in Montana.

The result has been an unbalanced presentation of information to Montana voters. This is especially damaging in a ballot issue campaign, as studies have shown that a voter who is at all doubtful or confused tends to vote "no" on a ballot question.

This bill would, we hope, help ensure balance and honesty in Montana's initiative process.

First, it would prohibit the publication of knowingly false information regarding a ballot issue. Unfortunately, modern polling techniques have increased the temptation to use false or knowingly misleading advertisements.

For example, the 1988 Bottle Bill opponents widely spread the fear that prices would rise and that taverns would become bottle redemption centers. That several hundred thousand dollar advertising strategy was, at least in part, based on a poll which sought to identify the reasons Montanans would vote against a bottle bill.

Common Cause #3
1-22-93
SB-176

While the First Amendment accepts that false information will be inadvertently presented in political debate, it does not protect the making of knowingly false claims, or "actual malice" as it was deemed by the U.S. Supreme Court. This bill would make the publication of knowingly false information a misdemeanor crime.

Most importantly, the bill would limit a ballot committees acceptance of out-of-state contributions to 49% of the total contributions received by that committee.

The charts attached to my written statements are testimony to the ability of out-of-state money to unduly influence Montana ballot initiatives. In 1980, 79% of the money opposing the Beverage Container Deposit Law came from out of state. The citizen initiative lost. In 1988, 69% of the money opposing the same issue came from out of state. The initiative lost again. In the 1990 Tobacco Tax ballot campaign, 99% of the opposition funds came from out-of-state interests. That citizen initiative also lost.

Clearly, the issue of freedom of speech arises whenever a law seeks to regulate campaigns. However, the U.S. Supreme Court, in *Buckley v. Valeo*, determined that, while it is unconstitutional to put a ceiling on campaign expenditures, a state may impose limits on campaign contributions as a weapon against "the reality or appearance of improper influence stemming from the dependence ... on large campaign contributions ..."

This bill does not put a ceiling on expenditures. A political committee for or against a ballot issue may spend whatever it wishes. What this bill does is limit contributions, in order to prevent the reality or appearance of improper influence stemming from large, out-of-state ballot campaign contributions.

In this country, we have determined that certain issues, certain laws, must be controlled and initiated by the federal government. Other issues have been relegated to the states. The citizens of the state of Montana have a right to determine their own laws. The unregulated undue influence of out-of-state interests on the citizen initiative process undercuts that right.

This bill will help ensure that the citizen initiative process remains primarily in the hands of Montana citizens.

Common Cause strongly urges passage of SB 176.

1-22-93
SB-176

MONTANA BALLOT ISSUES
AND CONTRIBUTIONS RECEIVED

BALLOT ISSUE	DATE	TOTAL CONTRIBS. RECEIVED	TOTAL OUT- OF-STATE CONTRIBS.	% FROM OUT-OF- STATE
C-64 Term Limits (support)	1992	\$44,155	\$32,500*	73%
I-115 Tobacco Tax (opposed)	1990	\$1,530,056	\$1,519,084	99%
I-113 Bottle Deposit Law (opposed)	1988	\$493,340	\$337,855	69%
I-110 Seat Belt Repeal (opposed)	1988	\$221,579	\$219,145	99%
I-95 Bottle Deposit Law (opposed)	1980	\$575,794	\$455,736	79%

* From the Helena Independent Record, 10/31/92. An additional \$15,000 was contributed from out-of-state to pay American Petition Consultants for signature-gathering work in Montana.

COMPARISON OF MONATNA BALLOT ISSUES
AND CONTRIBUTIONS RECEIVED

BALLOT ISSUE	DATE	\$ RAISED BY COMMITTEE IN SUPPORT	\$ RCVD. FROM OUT- OF STATE/ % OF TOTAL	\$ RAISED BY COMMITTEE IN OPPOSITION	\$ RCVD. FROM OUT- OF-STATE/ % OF TOTAL
I-115 Tobacco Tax	1990	\$44,668	\$12,716 28%	\$1,530,056	\$1,519,083 99%
I-113 Beverage Container Deposit	1988	\$54,807	\$0 0%	\$493,338	\$337,855 68%
I-110 Seat Belt Repeal	1988	\$1,266	\$0 0%	\$221,579	\$219,145 99%
I-95 Beverage Container Deposit	1980	\$27,405		\$575,794	\$455,736 79%

MontPIRG

Montana Public Interest Research Group

360 Corbin Hall □ Missoula, MT 59812 □ (406)243-2907

SENATE STATE ADMIN.

EXHIBIT NO. 9

DATE 1-22-93

BILL NO. SB 176

1/22/93

Testimony For Senate Bill 176

Dear Senator Vaughn and Members of the State Administration Committee:

The Montana Public Interest Research Group (MontPIRG) is a non-profit, non-partisan research and advocacy organization located on the University of Montana campus. MontPIRG represents 2500 student members and 1500 community members statewide.

MontPIRG supports Senate Bill 176 because of the incredible effect out of state money can have on an initiative campaign. Ultimately, the public is reliant on the media for information about ballot issues. Considering the high cost of a full-blown media campaign, it is unfair for well-monied out of state corporations to have the opportunity to dramatically influence the decisions citizens of Montana need to make. We encourage you to limit out of state contributions to ballot issue campaigns.

False advertising concerning any issue has lasting negative effects on the public. Monitoring direct mail advertising by the Commissioner of Political Practices, prohibiting the use of knowingly false political advertising, having the committees involved included under Montana's Voluntary Code of Campaign Practices, and charging all primary committees for a random audit will increase the likelihood Montana voters will hear the truth about both sides of a ballot issue.

MontPIRG urges you to vote "For" Senate Bill 176.

Sincerely,

Linda Lee
Executive Director

Students and citizens working for educated consumers, a clean environment and a more responsible government.

SENATE STATE ADMIN.

EXHIBIT NO. 10

DATE 1-22-93

BILL NO. SB 176

January 19, 1992

Dear Madam Chairperson and Committee Members,

This letter is in support of Senate Bill 176, which calls for limiting out of state funding for ballot issues to no more than forty-nine percent of the total funds raised.

Last year I was the Treasurer for a City ballot issue. I watched as the opponents raised over ninety percent of their money from out of state. They out spent us 10 to 1. As politicians you know the effect and importance money has on a campaign.

It is time that we start taking steps to curb the influence money has on our elections. This would be a first step in reforming a system that should allow Montana's people to debate and then vote on issues without the undue influence of out of state money.

Will Wood



1608 Howell
Missoula, Mt

AMERICAN LUNG ASSOCIATION of Montana

GREAT FALLS TRIBUNE

Great Falls, MT 59403
Daily 330-9400, 40,000

SUPERIOR CIRCULATING SERVICE
Billings, MT 59105-0789

SENATE STATE ADMIN.
EXHIBIT NO. 11
DATE 1-22-93
BILL NO. SB 176

Common Cause fears special interests' clout

Tribune Capitol Bureau

HELENA -- The tobacco industry's defeat of a ballot issue to raise the cigarette tax shows that special interest groups new control Montana's initiative process, the executive director of Montana Common Cause charged Tuesday.

The lobbying group's C.B. Pearson criticized the tobacco industry for raising more than \$1.5 million to defeat Initiative 115, which voters last month rejected by a 59-41 percent margin.

"The money spent against I-115 broke all initiative spending records and most of that money went to pay the costs of a relentless propaganda campaign waged through TV, radio, newspapers and through direct mail," Pearson said.

Pearson said that 99.8 percent of the money raised to defeat I-115

came from out-of-state interests, with three sources, R.J. Reynolds Co. of North Carolina, Philip Morris of New York and the Tobacco Institute of Washington, D.C., providing 76 percent.

By contrast, supporters collected about \$40,000, nearly all of it from Montana, on behalf of the measure, which would have raised the cigarette tax by 25 cents a pack.

Pearson said Montana Common Cause will ask the 1991 Legislature to "even the playing field."

Although several proposals are under consideration, Pearson said one possibility is a bill to require that 51 percent of the money spent on a ballot issue campaign be raised from Montana. At present, there are no limits on out-of-state money.

"It is time for reform," he said. "Montana citizen initiatives should

be promoted by Montanans using Montana money and opposed by Montanans using Montana money."

Pearson said those Montanans who worked to qualify I-115 for the ballot were betrayed by a political system that encourages citizen initiatives through local volunteer efforts but then exposes them "to combat against out-of-state professionals and their hired local mercenaries."

"We don't let the New York Giants play C.M. Russell for the Montana state football championship, do we?" Pearson said. "That's the same type of mismatch we now have with these initiatives which pit local citizen volunteers against these professional economic interests."

Jerome Anderson, the Helena lawyer and spokesman for the tobacco industry group, was unavailable for comment Tuesday.

Please urge you to support Senate Bill 176 which will limit contributions outside of Montana to 49% of the total contributions.

Let's keep Montana government "by the people for the people"

*Earl H. Thomas
American Lung Assoc of Montana*

"When You Can't Breathe... Nothing Else Matters"

SB 176 (BIANCHI)
Testimony of Charles W. Walk
Senate State Administration
January 22, 1993

DATE FILED _____
FILE NO. 12
DATE 1-22-93
BILL NO. SB 176

Madam Chair, members of the committee, for the record my name is Chuck Walk. I am executive director of the Montana Newspaper Association, which represents all 11 daily newspapers and 62 weekly newspapers across the state.

I rise in opposition to SB 176

We have several concerns with the bill. First, we are concerned about Section 1 which seems, we believe, to indicate that the publisher of a newspaper, the manager of a television station or the owner of an outdoor advertising company is the culpable individual or individuals under the legislation as proposed.

I would suggest this is the ultimate attempt to "kill the messenger." It places the burden of policing the entire legislation on the wrong end of the conduit of the process. At very least, the section should be amended to replace the word "publish" on line 18 of page 1 with the phrase "cause to be produced" and the word "publishing the information" on line 20 on page 1 with the phrase "causing the information to be produced." This we believe would place the policing burden where it belongs...on those persons who originate and produce the information provided the media. (Submit amendment for consideration.)

We have the same kind of concern with Section 2, Paragraph 3 of the legislation. We are uncertain about who is responsible for submitting the material or document to the commissioner and where the ultimate responsibility for that material or document rests.

Also, in the title of the bill, the point is made that the purpose of this particular section is to require compliance review of "certain direct-mail campaigns." This would seem to imply that only "direct mail" materials would be covered by the section. But, unfortunately, the language of the bill would also cover newspapers because all Montana newspapers do, in fact, mail at least 50 copies of each issue.

In the case of a newspaper advertisement which might be subject to that same paragraph, we are unclear about the purpose of such a section. It states that the advertisement would have to be submitted to the commissioner not later than the day of mailing. The commissioner would then be required to issue an opinion on the material's compliance within five days.

That would mean the public would have had the opportunity to read and see the advertisement for at least four days before such an opinion would be required. What purpose would the opinion serve at that point?

I would also point out that this particular section addresses only documents or materials mailed and does not even mention other media outlets which might carry the same basic information, such as radio, television, outdoor billboards or political handouts. For example, the very same advertisement could be used in a direct mail campaign, a newspaper advertisement, a road-side billboard and a spot on television, yet only the direct mail material and newspaper advertisement would be subject to compliance review under this proposed legislation.

This certainly raises a serious question on our part as to why newspapers and direct mail are being singled out for such treatment. The simple question of fairness aside, we doubt whether such treatment would withstand serious legal challenge. There is even an appearance of prior restraint in this section which needs to be addressed, we believe.

Of course, we also have serious concerns about Section 5, paragraph 3 of the bill.

We disapprove in general with any laws which limit or hinder in any way the dissemination of information or the access to that information. And, we obviously carry that disapproval to anything that limits commercial information.

This section of the bill could greatly limit this dissemination of information in the ballot process.

Two years ago during debate on a very similar piece of legislation was introduced on the House side, a proponent of this particular method of information limitation said in a letter to the editor to the Capital City newspaper that under present Montana law there is "no limit on the quantity of speech" in our election process.

I agree and hope we never see the day when there are such limits.

In the same letter the proponent went on to say that legislation as the kind before you today defines 'the quality of speech by saying it must primarily be Montana speech.'

While I appreciate the ideas and pronouncements of all my fellow Montanans in all areas in which they have knowledge and expertise, I do not believe - nor do I hope most fair-minded people believe - that only Montanans have good ideas and problem-solving programs which could be helpful in informing and educating the people of Montana.

We do not need to limit the access to information for Montanans. I trust the intelligence and the integrity of Montanans to be able to sort through any and all such information to arrive at a proper decision in any forum...including the ballot process.

I urge the committee to give SB 176 a "Do Not Pass" vote. Thank you.

SENATE STATE ADMIN.

SENATE NO. 13

DATE 1-22-93

BILL NO. SB 176

PROPOSED AMENDMENT TO SB 176

Line 18:

Following "a person may not,"

Insert: "**cause to be produced**" in place of word "**publish.**"

Line 20:

Following "when the person,"

Insert: "**causing the information to be produced**" in place of the words "**publishing the information.**"

END

Amendments to Senate Bill No. 176
First Reading Copy

Requested by Senator Bianchi
For the Committee on State Administration

Prepared by Greg Petesch
January 22, 1993

1. Title, line 13.

Following: ";"

Insert: "IMPOSING A FEE TO PAY FOR AUDIT COSTS;"

2. Page 7, line 17.

Strike: "the audited"

Insert: "all"

3. Page 7, line 18.

Strike: "committee"

Insert: "committees"

4. Page 7, line 19.

Strike: the first "the"

Insert: "all"

Strike: "committee"

Insert: "committees"

5. Page 7, line 20.

Strike: "completion of the audit"

Insert: "filing of the final report"

6. Page 7, line 21.

Strike: "may"

Insert: "shall"

DATE 1-22-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 147, SB 174, SB 176

Name	Representing	Bill No.	Check One	
			Support	Oppose
AMY KELLEY	Common Cause	SB 174 SB 176	X	
Darrell Holzer	MT. ST. AFL-CIO	SB 147	X	
Lee Haverfield	Clark & Recorder Hitalo	SB 147		X
RUTH HOBBS	LAKE CO. CLK+REC	SB 147		X
Charles Wolff	MT Newspaper	SB 176		X
JoAnn Johnson	MACR/Cho. Co.	SB 147		X
Janet Park	Hellgate Clerk & Rec.	SB 147		X
MYLT Hovland	SHERIDAN CO CLK+REC	SB 147		X
Shelley Cheney	Gallatin Co. CLK+REC	SB 147		X
Geraldine Nile	Rosebud Co. CLK+REC	SB 147		X
Tootie Walker	MAPP	SB 147	X	
Maureen Frezic	Montana Republican Party	SB 147	X	
Betty Sund	Rawl's G.	SB 147		X
Gail Thomas	American Lung Assn	SB 176	X	
Tran Mancaw	U.T.U.	SB 147	X	
Dwight Welch & Dan Stahly	MontPIRG	SB 174	X	

VISITOR REGISTER

147
+
176

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1/22/93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 147, SB 174 SB 176

Name	Representing	Bill No.	Check One	
			Support	Oppose
Linda Lee	Mont PIRG	174 176 147	X	
DON BYRD	MT ASSOC CLERK & Recorders			X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY