

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By Senator Eleanor Vaughn, on March 12, 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: HJR 13, HJR 17, HB 518
Executive Action: HJR 13, HJR 17, SB 287

HEARING ON HJR 13

Opening Statement by Sponsor:

Rep. Barnhart, House District #80, presented HJR 13. HJR 13 is a joint resolution brought because of some of the things that were happening in campaigns. It would establish an interim committee to study solutions to misrepresentations that occur during political campaigns. Right now there is not much recourse for campaigners or for consumers to know whether or not the things that are said during a campaign or true or untrue. Oftentimes there is no complaint brought because if the person wins the election he forgets about it. This would establish a committee to study some of these things that are going on.

Proponents' Testimony:

Brad Molnar, House District #85, spoke in support of HJR 13. He worked with Rep. Barnhart, Sen. Klampe and Amy Kelley to find a solution to many of the problems. "During the last hours of campaigns some untruths come out and there is no time to respond. The law says that we, as politicians, have the right to be protected from slander and liable. But the courts say we are a special breed and we don't have that right. What we think this will do is what other states have done in trying to find solutions and make recommendations to try and clarify where we stand on this issue. In the case of my opponent, he said "Molnar says this." I wrote him a note and put a letter in the paper and said that I did not say what he accused me of saying. Three weeks later we were right back to where we were. That's the purpose of this bill, because the people of Montana have the right to know what they are hearing, especially during the last hours of a campaign, is at least half true as opposed to something that is concocted.

Amy Kelley, Director of Common Cause/Montana, rose in support of HJR 13 and gave written testimony (EXHIBIT #1).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Pipinich asked Mr. Argenbright if there was anything that could be done to stop negative campaigning. When a politician runs he should get out and campaign on what he or she thinks they can do and the issues they stand on. Mr. Argenbright said he has been reviewing files and is aware of what Rep. Molnar was talking about with regard to what happened in his campaign. He stated he was aware of what had happened in Sen. Pipinich's campaign. He said he did not come to the hearing as a proponent or an opponent and if Sen. Pipinich felt it was necessary to have a study done he would find it very helpful in terms of his operation and office. Mr. Argenbright said he believed there was a problem and the position of the Commissioner is a critical piece of that problem. He would be willing to look at the work of the committee and participate on the committee to come up with something that would be a protection for individuals. Sen. Pipinich said in his case the individual was told that he had to stop distributing his campaign literature. He did not raise enough money so he kept on doing it until the last day. There should have been something done to stop him. He was told to stop and did not do it. Mr. Argenbright said one of the things that can be done from the Commissioner's office is to file a complaint with the Commissioner and publicize it. But when it happens the week-end before the election there is no time to respond. Sen. Pipinich said there was nothing he could do to stop the individual in his case unless he wanted the Sheriff to go down

and do something. Sen. Pipinich said he even filed charges against him in Anaconda. There was nothing done.

Sen. Fritz stated, on page 2, line 21, it says the Commissioner would be made a voting or a non-voting member of the committee and he asked Rep. Barnhart if she couldn't make up her mind on that issue. Rep. Barnhart said if Sen. Fritz would like to make up her mind that would be nice. Sen. Fritz said it could not be both. Rep. Barnhart said she would leave that decision up to the committee.

Sen. McClernan asked Rep. Barnhart if this was one of those interim studies and if this bill was to pass that it would go into the hopper with a whole lot of other bills and someone would decide what to do with it. Rep. Barnhart said yes, and we are the someone who will get to vote on it.

Sen. Weldon asked Rep. Barnhart what her preference was in regards to Sen. Fritz' question on the voting or non-voting member of the committee. Rep. Barnhart said she would like him to be a voting member.

Closing by Sponsor:

Rep. Barnhart thanked the committee for the hearing and she urged the committee to pass the joint resolution. If the joint resolution passes, Sen. Klampe will carry the bill on the floor.

HEARING ON HJR 17

Opening Statement by Sponsor:

Rep. Liz Smith, House District #48, presented HJR 17 on behalf of the correctional officers. "The need has been stated by them for several years and has been overlooked or disregarded. The resolution requests that an appropriate interim or statutory committee study the benefit structure of potential revisions for public safety and security personnel and include correctional officers under that title. In this study of retirement benefits that are ongoing at this time, these people could be included in that particular classification. Presently, in going through the prison and meeting with other correctional officers, I have noted that a lot of those have only been there for approximately four to six years or they're close to a twenty-year retirement span. Their type of risk in relationship to that job really does go under a classification of public safety and security personnel and should have the same consideration as the Montana Highway Patrolmen and the peace officers have at this time. She urged the committee to consider this group for an optional retirement benefit. It would help create a better incentive for people to stay in a job that carries an element of risk to it. It would be beneficial to the working conditions of that situation. At the House hearing, Tom Schneider of PERS supported the resolution.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Fritz asked Rep. Smith if the public safety and security positions at the prison are at the present time not covered by a retirement system. Rep. Smith said they are inclusive in a PERS retirement plan which has 25-year optional plan as a state employee. "The Correctional Officers have felt a little bit lost like a little fish in a big pond and they feel they should be classified more in a highway patrol concept. Sen. Fritz said right now they are state employees. There are the Sheriffs and Police Officers and Game Wardens who feel they might benefit from a separate retirement system within the PERS but with a different classification. Rep. Smith said that was correct. She added that Mr. Schneider had commented that the more that we can collectively group the classification, the cheaper the arrangements could be made for the group receiving benefits.

Sen. Hockett asked Rep. Smith if they are aware that the Highway Patrolmen are not under Social Security. Rep. Smith said they are aware of that. Sen. Hockett said he sees this as a complication because the Highway Patrolmen have been in this committee asking for redress because they are not under social security and he has questions about moving this group. He asked Rep. Smith if the prison employees are under social security or PERS. Rep. Smith said she could not answer that question.

Sen. Swift asked Rep. Smith if this would require lesser years of service. Rep. Smith said this would give them an option. Sen. Swift said with a group that size they would be looking at joining another retirement group. Rep. Smith said they were looking at the titlement of public safety and security personnel, with which these people would like to be included.

Sen. Weldon asked Rep. Smith if there was some other way the committee could arrive at a conclusion if in the rush of funding some of the interim studies this one does not get funded. The questions will be outstanding and there appears a need to arrive at some conclusions. He asked if there were some options available to the committee. Sen. McClernan stated that in January, this committee dealt with a bill presented by Sen. Bianchi to study the retirement systems. Sen. Hockett said somewhere in the process there is a bill that came out of a committee that Sen. Swift and he served on during the interim. It studied retirement programs and policies which are continually ongoing things. This was a proposal to have a statutory committee comprised of members of the House and Senate to review

this kind of problem instead of trying to deal with it on a very piecemeal basis and not looking at the fiscal impact on the State of Montana. If that bill is alive it deals with part of what this bill is concerned with. These groups would be asked to either present proposals or proposed legislation to this statutory committee and work to try to resolve things in that area. He suggested Rep. Smith talk with Rep. Cocchiarella on this issue to see if that bill is in fact alive. Rep. Smith said the interim study was completed in regards to the retirement benefits. She said she was going to introduce it as a bill and realized, after research and being a freshman, that there's more to it than that and it would take a year just to gather the information and have it introduced as a bill. "I also hear there are other things out there and I don't want to duplicate efforts, I just want this to be part of a study process and I asked Rep. Cocchiarella to support this resolution."

Closing by Sponsor:

Rep. Smith stated she felt for equalization and recognition of the safety and security personnel and especially for correctional officers who have had strong difficulties over the past few years. She urged support from the committee and if it should pass the committee she said Sen. Beck would carry the bill.

HEARING ON HB 518

Opening Statement by Sponsor:

Rep. Whalen, House District #93, presented HB 518. HB 518 would prohibit improper use of health care information for political purposes or in political campaigns and is being brought because of the fact that this is a process where health care issues are being debated. Prior to coming here he looked at the Confidential Health Care Information Act and the act addresses itself to the improper release of information as opposed to the improper use of information. "Oftentimes there are bills that affect a particular industry and the deck is stacked against you when you start receiving hundreds of pieces of mail from a group of doctors. The improper use of patient lists to lobby on specific pieces of legislation is the purpose of introducing this bill. When the bill was heard in the House Judiciary Committee someone asked what the potential application of this bill was and Rep. Dave Brown indicated that three or four years ago a U.S. Senator from North Dakota was running a re-election campaign. He was 80 years old and ended up going into the hospital for something. The news media was all over the hospital wanting to know what the situation was and apparently, the issue of his health caused a lot of problems with his re-election campaign. Although he won re-election it was something that became a hot issue and it seems to me that's a thing to avoid. Health care

information is something we should protect since it is very personal and we need to make sure that this loophole in the law is closed so we don't have an improper use of this information."

Proponents' Testimony:

Jim Ahrens, Montana Hospital Association, said they had no strong feelings one way or the other about this legislation. It does present an interesting issue because when Gov. Stephens was running he went into the local hospital and the people wanted to know what was going on. The Governor subsequently announced that he would not run. The hospital was pretty guarded on that issue. Most of the time patients testify against the hospital because of something that has happened to them.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Weldon asked Rep. Whalen if health care information was defined anywhere in the statutes. Rep. Whalen said it was defined in the Confidential Health Care Information Act which is codified in Title 50, Chapter 16, part 5.

Sen. Weldon stated the House committee redid the way Rep. Whalen originally had section 1 and added a new section. Rep. Whalen said they put in what he had intended the bill to be. It was drafted to apply to in-hospital medical staff committees. This came out of the Legislative Council and there was not adequate time to put it together the way it needed to be put together.

Sen. McClernan stated that just before he came to committee he sent out his fourteenth letter to someone in Butte saying Sen. Doherty does not have a bill to tax the Blue Cross/Blue Shield health insurance. He said the people who were concerned about this had gotten a letter from Blue Cross/Blue Shield saying that Sen. Doherty had a bill that was going to tax the insurance premiums. He asked if this bill would cover that kind of thing. Rep. Whalen said unfortunately this bill would not cover that. Maybe this bill should apply to those kinds of situations.

Sen. Fritz said that Rep. Whalen had brought up the issue of Sen. Burdock from North Dakota who shortly before the election was admitted to the hospital. Shortly after the election he died. He asked Rep. Whalen if his health should have been an issue in the campaign. Rep. Whalen said he did not think his health should have been an issue unless he authorized the publication of it. The way the issue developed, his age was a matter of public information, but he went into the hospital for some minor thing associated with is heart and whether or not that was the cause for his untimely death, he could have lived for another ten years and he would have been deprived of the ability to hold an office.

Sen. Fritz said he felt it should be a matter of concern to the voters and they should have some health information when an 80-year old candidate enters the hospital just before the election. Rep. Whalen said if he is a sitting office holder, it is perfectly legitimate for the press to publicize his health information. But when someone is running for office, it should not be an issue. We have to draw the line somewhere as to what the press is going to report and how much they can report without the consent of the individual.

Sen. Fritz commented that Rep. Whalen was coming close to saying if you are not in the hospital your health can be an issue but if you are in the hospital your health cannot be an issue. Rep. Whalen said he was not saying that at all but if someone is in the hospital it should be up to the individual to release the information about his health to the public when they are involved in a political campaign. If someone has not sought medical treatment he has control over what he discloses to the public and it should follow him into the medical provider situation.

Sen. Fritz said, suppose you fall into a coma just before an election and therefore are incapable of releasing your own health care information, should that information be kept from the voters? Rep. Whalen said that would not be defined under confidential health care information in the statute. "In the last campaign of Earl Long, around election day or shortly thereafter, before he was sworn into office, he died. He had won, overwhelmingly, the Senate seat he was running for. I don't know to what extent there was knowledge of his health at that time. Everyone probably thought he was a lunatic at that time as a result of his last term of Governor."

Sen. Weldon said the bill simply says that a health care provider cannot provide the information. It is appropriate for a candidate to provide the information. Sen. Fritz added a candidate in a coma could not provide that information. Sen. Weldon said the next of kin or the campaign staff could provide the information.

Closing by Sponsor:

Rep. Whalen said the definition of health care information is clearly defined. This bill is more of something that is closing the loophole and sending out the message that, if anyone is tempted, not to improperly use health care information.

EXECUTIVE ACTION ON HB 518

Motion: Sen. Weldon moved HB 518 BE CONCURRED IN.

Motion: Sen. Tveit made a substitute motion to TABLE HB 518.

Vote: The motion to TABLE HB 518 CARRIED with Sen. Fritz, Sen. McClernan and Sen. Weldon voting no.

EXECUTIVE ACTION ON HJR 13

Motion: Sen. Fritz moved to amend HJR 13 on page 2, line 21, making the Commissioner of Political Practices a non-voting member, striking "voting or."

Discussion: Sen. McClernan asked why do this. Sen. Fritz said this was a legislative committee. There should not be non-legislators as voting members of a legislative committee.

Vote: The motion to amend HJR 13 CARRIED UNANIMOUSLY.

Motion/Vote: Sen. Weldon moved HJR 13 BE CONCURRED IN AS AMENDED. The motion HJR 13 BE CONCURRED AS AMENDED CARRIED UNANIMOUSLY. Sen. Klampe will carry the bill.

EXECUTIVE ACTION ON HJR 17

Motion: Sen. Fritz moved to amend HJR 17 in the title, line 6 by crossing out the words "or statutory."

Discussion: Sen. Fritz said a statutory committee cannot be established by resolution and is not appropriate. This is a resolution for an interim committee. Sen. Weldon offered in addition to Sen. Fritz' amendment, in the title, line 7 "the benefit structure and potential revisions for," it needs to say "revisions in retirement benefit options for." Mr. Niss said if the bill that Sen. Hockett mentioned does pass and is enacted that the deletion "or statutory" which that committee would become, that was heard in the House Human Services and Aging, kind of indicates a legislative intent and it would not be heard in that committee. Sen. Hockett said we were talking about something we did not know was going to happen or not. Sen. Fritz said he would amend the amended motion to not eliminate "or statutory." "Because if the statutory committee is established then it would be an appropriate statutory committee to study this issue. We could leave the title as it is in that respect."

Vote: The motion to amend HJR 17 CARRIED UNANIMOUSLY.

Motion: Sen. Weldon moved HJR 17 BE CONCURRED IN AS AMENDED.

Discussion: Sen. Tveit asked Mr. Niss if there were laws on the books to ensure the retirement funds stay solvent. Mr. Niss said there are laws to ensure solvency. The security personnel are the ones who are primarily interested in this legislation. They may have an interest in moving to a different retirement system or having their own created.

Vote: The motion HJR 17 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. Sen. Beck will carry the bill.

EXECUTIVE ACTION ON SB 287

Motion: Sen. Weldon moved to amend SB 287 (sb028701.adn).

Discussion: David Niss explained the amendments. The essential difference is that it turns a local licensing procedure into a state licensing procedure rather than have the clerks and recorders issue the licenses. The licenses would be issued by the Commissioner of Political Practices. That is a much more usual situation to have a state body issuing licenses affective in all of the counties rather the county clerks and recorders issuing the licenses on a county by county basis. Some of the further details involved in that is it brings the licensing revocation and disciplinary action within the bounds of the Montana Administrative Procedures Act and requires hearings and adoption of rules pursuant to the Montana Administrative Procedures Act because rules would now be required under MAPA. That is essentially the difference. It makes what was in the bill, as introduced, a county by county licensing procedure and turns it into a state licensing procedure very much like the licensing procedures administered by the title 37 boards who are now reviewing nominations for plumbers, barbers and osteopaths and assigns it to the Commissioner of Political Practices.

Sen. Weldon said there were a couple of other things that were problematic. One was that it was an error where it said the report had to be given to each member of the legislature. That is amended to say the commission shall report to the legislature in a manner provided in current law. It also changed the fee from a set \$10 to cost commensurate with the cost of administering. If someone is going to carry or oppose a initiative and they bring in a professional staff of signature gatherers, this would be a mechanism by which we can note that.

Sen. McClernan asked if the bill would apply to paid signature gathers and volunteer signature gatherers would not be affected. Sen. Weldon said that was correct. "An example is, MONTPIRG may have student interns that are paid minimum wage to stand in a grocery door to gather signatures. Those would be the people that do so. Another example is, we had a local initiative in Missoula to regulate pesticide use. It was a grassroots effort and those people did not have to even register under this program. They could simply pick up a petition with the outfit that is sponsoring the initiative so it's just those cases where people are hired to gather signatures."

Sen. McClernan said it would be such a simple matter to get a license. "It might be good to include everyone who gathers signatures. He was not sure of the advantage of licensing any of them."

Sen. Swift asked how this would be administered and who was going to be the policeman to differentiate between the individuals and how do you determine the credentials. Sen. Weldon said it would be administered by the Commissioner and policed by all of the people. Election laws are policed like that now. The Commissioner would set up procedures similar to what we have with campaign expenditures and contributions.

Sen. Swift said the individual does not have to answer to the people since they have no authority so the complaints would go through the Commissioner in every case. Sen. Weldon said that was correct. The Commissioner is the one who has the authority.

Sen. Tveit asked who was going to pay the individuals to gather signatures. Sen. Weldon said it was the industry or special interest that hires the signature gatherers. An example is, the Tobacco Institute would come in to oppose or support a particular referendum and they might hire people to gather signatures in favor or against a referendum.

Sen. Tveit asked if these were signatures for a referendum. Sen. Weldon said yes, to get it on a ballot. In current law there needs to be a certain percentage of the electorate to get a referendum on an election ballot. That signature gathering process is what we are talking about.

Sen. Vaughn asked if there was any way the Commissioner would notify the clerks and recorders or the election administrators that these people have gotten a license. Do the people have to go to the election administrators when they come to a county and show their license? Sen. Weldon said this bill has nothing to do with local people any more. Sen. Vaughn said if we see someone gathering signatures we would not know if they were being paid unless we specifically ask them. And if they are being paid they should have a license to show that they have a right to do that.

Sen. McClernan asked if there was a provision for a name tag or an I.D. Sen. Weldon said that was an idea that was bounced around but did not make it into the bill.

Vote: The motion to amend SB 287 CARRIED.

Motion: Sen. Weldon moved SB 287 DO PASS AS AMENDED.

Discussion: Sen. Swift said he did not think the committee should be dealing with the initiative and referendum process and will not support this bill in the present form. Unless it is absolutely required for everyone to show whether or not they are hired. The record keeping just adds to the burden of the Commissioner of Political Practices unduly. We can determine generally whether or not a person is being paid for gathering signatures.

Vote: The motion SB 287 DO PASS AS AMENDED FAILED with Sen. Weldon voting yes.

Sen. Doherty will carry the adverse committee report.

ADJOURNMENT

Adjournment: 11:30 a.m.



SENATOR ELEANOR VAUGHN, Chair



DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 3-12-93

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	✓		

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 5
March 12, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 287 (first reading copy -- white), respectfully report that Senate Bill No. 287 be amended as follows and as so amended do not pass.

Signed: Senator Eleanor Vaughn
Senator Eleanor Vaughn, Chair

That such amendments read:

1. Title, line 5.

Strike: "COUNTY ELECTION ADMINISTRATORS"

Insert: "THE COMMISSIONER OF POLITICAL PRACTICES"

2. Page 1.

Following: line 8

Insert: "Statement of Intent

A statement of intent is required for this bill because [section 18] requires the commissioner of political practices to adopt rules implementing [sections 1 through 17]. It is the intent of the legislature that the commissioner adopt rules concerning hearings and other procedures necessary to implement the application of the Montana Administrative Procedure Act. At a minimum, the rules must include contested case procedures necessary for the suspension or revocation of licenses issued by the commissioner. The commissioner may adopt the attorney general's model rules for this purpose.

The commissioner shall also adopt rules specifying the fees necessary for issuance of licenses. The fees must be nonrefundable, must be commensurate with the commissioner's costs of issuing licenses, and must include necessary amounts to make all aspects of the licensing and docketing program under [sections 1 through 18] self-supporting."

3. Page 1, lines 12 and 23; page 2, line 2; page 4, lines 6 and 13; page 5, lines 7, 12, 20, and 25; page 6, lines 19 and 25; page 8, lines 7 and 12; page 9, line 21; page 10, line 12; page 11, lines 7, 11, and 15; page 12, lines 2 and 5; page 13, lines 3, 13, and 15.

Strike: "17"

Insert: "18"

4. Page 1, lines 18 and 19.

Strike: "county election administrators"

Insert: "the commissioner"

m Amd. Coord.
Sec. of Senate

561532SC.Sma

5. Page 2, lines 4 and 5.

Strike: "election administrator of each county"
Insert: "commissioner"

6. Page 4, lines 14 and 15.

Strike: "election administrator of each county"
Insert: "commissioner"

7. Page 4, line 18.

Strike: the first "the"

Insert: "a"

Strike: "of \$10 by the election administrator"

Insert: "commensurate with the costs of administering [sections 1 through 18]"

8. Page 4, line 20.

Strike: "that county"

Insert: "the counties designated in the license"

9. Page 5, lines 2 and 3.

Strike: "and" on line 2 through "application" on line 3

Insert: "in accordance with Title 2, chapter 4, part 6, and the rules of the commissioner"

10. Page 5, line 7.

Strike: "county"

11. Page 5, lines 17 and 18.

Strike: "election administrator of each county"

Insert: "commissioner"

12. Page 5, lines 20 and 24.

Strike: "election administrator"

Insert: "commissioner"

13. Page 6, line 6.

Strike: "election administrator"

Insert: "commissioner"

14. Page 6, lines 10 through 12.

Strike: "election" on line 10 through "particular," on line 12

Insert: "commissioner"

15. Page 6, line 15.

Following: "for"

Insert: "the commissioner and"

16. Page 6, line 23.

Strike: "election administrator of each county"

Insert: "commissioner"

17. Page 7, line 9.

Strike: "election administrator"

Insert: "commissioner"

18. Page 7, lines 14 and 15.

Strike: "each" on line 14 through "signatures" on line 15

Insert: "the commissioner's office"

19. Page 8, lines 2 through 5.

Strike: "On the" on line 2 through "county" on line 5

Insert: "The commissioner"

20. Page 8, lines 5 and 6.

Strike: "each member of each house of"

21. Page 8, line 6.

Following: "legislature"

Insert: ", in the manner provided in 5-11-210,"

22. Page 8, lines 13 and 14.

Strike: "election" on line 13 through "gatherer" on line 14

Insert: "commissioner"

23. Page 9, line 5.

Strike: "election administrator"

Insert: "commissioner"

24. Page 9, line 18.

Strike: "election administrator of each county"

Insert: "commissioner"

25. Page 10, lines 2 and 3.

Strike: "election administrator"

Insert: "commissioner"

26. Page 10, line 17.

Strike: "in each county"

27. Page 10, line 19.

Strike: "in that county"

28. Page 10, line 25 through page 11, line 1.

Strike: "of each" on page 10, line 25 through "signatures" on
page 11, line 1

29. Page 11, line 6.
Following: "violating"
Insert: "any of"

30. Page 11, lines 7, 11, and 15.
Following: "17]"
Insert: "or a rule or order of the commissioner"

31. Page 11, line 16.
Following: "court"
Insert: "or the commissioner"

32. Page 11, line 17.
Strike: "or"
Insert: ", "
Strike: "election administrator"
Insert: "commissioner,"

33. Page 11, lines 21 and 22.
Strike: "by an election administrator or the county attorney"
Insert: "to enforce the provisions of [sections 1 through 18] or
a rule or order of the commissioner"

34. Page 11, line 25.
Strike: "appropriate election administrator"
Insert: "commissioner"

35. Page 12, line 2.
Following: "17]"
Insert: "or a rule or order of the commissioner"

36. Page 12, lines 6 and 9.
Following: "general"
Insert: ", the commissioner,"

37. Page 13, line 3.
Strike: "under"
Insert: "or trial held to enforce any provision of"
Following: "17]"
Insert: "or a rule or order of the commissioner"

38. Page 13, line 4.
Following: "court"
Insert: "alone"

39. Page 13.

Following: line 11

Insert: "NEW SECTION. Section 18. Rulemaking. The commissioner shall adopt rules implementing [sections 1 through 17]."

Renumber: subsequent section

40. Page 13, line 14.

Following: "13,"

Insert: "chapter 37,"

41. Page 13, line 14.

Following: "13"

Insert: ", chapter 37,"

-END-

ROLL CALL VOTE

SENATE COMMITTEE State Administration BILL NO. HB 518

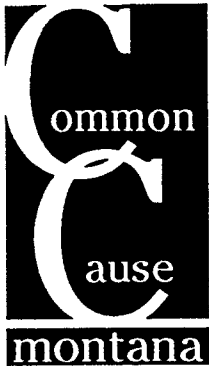
DATE 3-12-93 TIME 10:45 (A.M.) P.M.

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	✓	

SECRETARY

CHAIR

MOTION: HB 518 REPEALED



P.O. Box 623
Helena, MT
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SENATE STATE ADMIN.
LIMIT NO. 1
DATE 3-12-93
BILL NO. HJR 13

COMMON CAUSE TESTIMONY
IN SUPPORT OF HJR 13
MARCH 12, 1993

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

Representative Barnhardt, Representative Molnar, Senator Klampe and I have met several times this session to discuss the increasing problem of negative campaigning. What we discovered was that, while it is easy for politicians and the public alike to agree that something must be done, solutions are extremely difficult to come up with, let alone agree upon.

Negative campaigning is as old as American politics itself. Even the venerable Thomas Jefferson received campaign accusations of being an atheist and of keeping a slave mistress. However, our founding fathers well understood that erroneous statements of fact are inevitable in the context of public debate. They established the First Amendment specifically to ensure free political speech and protect against punishment for such error.

As a result, it is extremely difficult for a politician to seek remedy by suing for libel. And that remedy may be inadequate if, as a result of the slander, the candidate lost the election. What's more, many speculate that negative campaigning may discourage potential candidates and voters alike from participating in elections. In the words of journalist David Broder:

...the serious threat is that ... more and more voters are opting out. To the extent to which people are saying "...If they're not talking about the choices that are relevant to my life ... why should I participate?" You cannot have a functioning democracy based on that degree of cynicism.

Many other states have searched for solutions to the problem, with varying degrees of success. Many state statutes have been challenged in court for being unconstitutionally overbroad.

We strongly urge your support of HJR 13, to call for an interim committee to examine the work of other states and make recommendations to the next Legislature on how Montana can pull the reins on negative campaigning. The public will commend this effort.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 12, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Joint Resolution No. 17 (first reading copy - blue), respectfully report that House Joint Resolution No. 17 be amended as follows and as so amended be concurred in.

Signed: Senator Eleanor Vaughn
Senator Eleanor Vaughn, Chair

That such amendments read:

1. Title, line 7.

Following: "REVISIONS"

Insert: "IN RETIREMENT BENEFIT OPTIONS"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 12, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Joint Resolution No. 13 (first reading copy - blue), respectfully report that House Joint Resolution No. 13 be amended as follows and as so amended be concurred in.

Signed: Senator Eleanor Vaughn
Senator Eleanor Vaughn, Chair

That such amendments read:

1. Page 2, line 21.
Strike: "voting or"

-END-

Amendments to Senate Bill No. 287
First Reading Copy

Requested by Sen. Weldon
For the Committee on State Administration

Prepared by David S. Niss
March 8, 1993

1. Title, line 5.

Strike: "COUNTY ELECTION ADMINISTRATORS"

Insert: "THE COMMISSIONER OF POLITICAL PRACTICES"

2. Page 1.

Following: line 8

Insert: "Statement of Intent

A statement of intent is required for this bill because [section 18] requires the commissioner of political practices to adopt rules implementing [sections 1 through 17]. It is the intent of the legislature that the commissioner adopt rules concerning hearings and other procedures necessary to implement the application of the Montana Administrative Procedure Act. At a minimum, the rules must include contested case procedures necessary for the suspension or revocation of licenses issued by the commissioner. The commissioner may adopt the attorney general's model rules for this purpose.

The commissioner shall also adopt rules specifying the fees necessary for issuance of licenses. The fees must be nonrefundable, must be commensurate with the commissioner's costs of issuing licenses, and must include necessary amounts to make all aspects of the licensing and docketing program under [sections 1 through 18] self-supporting."

3. Page 1, lines 12 and 23; page 2, line 2; page 4, lines 6 and 13; page 5, lines 7, 12, 20, and 25; page 6, lines 19 and 25; page 8, lines 7 and 12; page 9, line 21; page 10, line 12; page 11, lines 7, 11, and 15; page 12, lines 2 and 5; page 13, lines 3, 13, and 15.

Strike: "17"

Insert: "18"

4. Page 1, lines 18 and 19.

Strike: "county election administrators"

Insert: "the commissioner"

5. Page 2, lines 4 and 5.

Strike: "election administrator of each county"

Insert: "commissioner"

6. Page 4, lines 14 and 15.

Strike: "election administrator of each county"

Insert: "commissioner"

7. Page 4, line 18.

Strike: the first "the"

Insert: "a"

Strike: "of \$10 by the election administrator"

Insert: "commensurate with the costs of administering [sections 1 through 18]"

8. Page 4, line 20.

Strike: "that county"

Insert: "the counties designated in the license"

9. Page 5, lines 2 and 3.

Strike: "and" on line 2 through "application" on line 3

Insert: "in accordance with Title 2, chapter 4, part 6, and the rules of the commissioner"

10. Page 5, line 7.

Strike: "county"

11. Page 5, lines 17 and 18.

Strike: "election administrator of each county"

Insert: "commissioner"

12. Page 5, lines 20 and 24.

Strike: "election administrator"

Insert: "commissioner"

13. Page 6, line 6.

Strike: "election administrator"

Insert: "commissioner"

14. Page 6, lines 10 through 12.

Strike: "election" on line 10 through "particular," on line 12

Insert: "commissioner"

15. Page 6, line 15.

Following: "for"

Insert: "the commissioner and"

16. Page 6, line 23.

Strike: "election administrator of each county"

Insert: "commissioner"

17. Page 7, line 9.

Strike: "election administrator"

Insert: "commissioner"

18. Page 7, lines 14 and 15.

Strike: "each" on line 14 through "signatures" on line 15

Insert: "the commissioner's office"

19. Page 8, lines 2 through 5.

Strike: "On the" on line 2 through "county" on line 5

Insert: "The commissioner"

20. Page 8, lines 5 and 6.

Strike: "each member of each house of"

21. Page 8, line 6.

Following: "legislature"

Insert: ", in the manner provided in 5-11-210,"

22. Page 8, lines 13 and 14.

Strike: "election" on line 13 through "gatherer" on line 14

Insert: "commissioner"

23. Page 9, line 5.

Strike: "election administrator"

Insert: "commissioner"

24. Page 9, line 18.

Strike: "election administrator of each county"

Insert: "commissioner"

25. Page 10, lines 2 and 3.

Strike: "election administrator"

Insert: "commissioner"

26. Page 10, line 17.

Strike: "in each county"

27. Page 10, line 19.

Strike: "in that county"

28. Page 10, line 25 through page 11, line 1.
Strike: "of each" on page 10, line 25 through "signatures" on
page 11, line 1

29. Page 11, line 6.
Following: "violating"
Insert: "any of"

30. Page 11, lines 7, 11, and 15.
Following: "17]"
Insert: "or a rule or order of the commissioner"

31. Page 11, line 16.
Following: "court"
Insert: "or the commissioner"

32. Page 11, line 17.
Strike: "or"
Insert: ", "
Strike: "election administrator"
Insert: "commissioner,"

33. Page 11, lines 21 and 22.
Strike: "by an election administrator or the county attorney"
Insert: "to enforce the provisions of [sections 1 through 18] or
a rule or order of the commissioner"

34. Page 11, line 25.
Strike: "appropriate election administrator"
Insert: "commissioner"

35. Page 12, line 2.
Following: "17]"
Insert: "or a rule or order of the commissioner"

36. Page 12, lines 6 and 9.
Following: "general"
Insert: ", the commissioner,"

37. Page 13, line 3.
Strike: "under"
Insert: "or trial held to enforce any provision of"
Following: "17]"
Insert: "or a rule or order of the commissioner"

38. Page 13, line 4.
Following: "court"
Insert: "alone"

39. Page 13.
Following: line 11
Insert: "NEW SECTION. Section 18. Rulemaking. The commissioner
shall adopt rules implementing [sections 1 through 17]."

renumber: subsequent section

40. Page 13, line 14.
Following: "13,"
Insert: "chapter 37,"

41. Page 13, line 14.
Following: "13"
Insert: ", chapter 37,"

Amendments to House Joint Resolution No. 17
Third Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
March 12, 1993

1. Title, line 7.

Following: "REVISIONS"

Insert: "IN RETIREMENT BENEFIT OPTIONS"

Amendments to House Joint Resolution No. 13
Third Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
March 12, 1993

1. Page 2, line 21.
Strike: "voting or"

DATE 3-12-93

SENATE COMMITTEE ON State Admin.

BILLS BEING HEARD TODAY: HJR 13, HJR 17, HB 518

Name	Representing	Bill No.	Check One Support Oppose	
Liz Smith	HD 48	HJR 17		
AMY KELLEY	HJR 13 Common Cause	HJR 13		<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY