

MINUTES

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

Call to Order: By Senator Eleanor Vaughn, on March 23, 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: Sen. Tveit

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: HB 319, HB 320
Executive Action: HB 317

Sen. Weldon discussed the assignments of the investigations of Governor's appointments and handed out the listings of board members. Sen. Burnett stated he had talked to most of the people he was investigating personally and he has no problem. Sen. Hertel said the only question that he had was on Rep. Chase Hibbard and by law he could not be a member but that he had already handed in his resignation. Sen. Hockett said the members could not be in the same Congressional District and there is only one district. Sen. Fritz said there would be no problem in meeting those requirements. No one would qualify.

HEARING ON HB 319 and HB 320Opening Statement by Sponsor:

Rep. Kadas, House District #55, presented HB 319 and HB 320. "HB 319 is a constitutional amendment to require annual sessions. It is considerably different from the previous bill sponsored by Sen. Waterman. It is more restrictive. There would be in an odd-numbered year, a 60-day session and in the even-numbered year a 30-day session. In the 30-day session the only bills that could be introduced would be bills that were requested from a standing committee. That is specifically to try and deal with the issue of bills that were killed in the first session and introduced in the second session. That was a major concern when there were annual sessions in the '70s. We absolutely need to get to a point where we are doing annual budgets. Right now we are having to project our revenues and our expenditures 2 1/2 years ahead. If there is even a 1% error in income tax projections, that gives us a \$60 million error in revenues. \$60 million is considerably larger than any ending fund balance we have appropriated in any of last three or four bienniums. A 1% error automatically throws us into special session if it is a negative error. We need to shorten that time frame so we do not have to project that far ahead. With annual sessions we will be budgeting a year and a half ahead instead of two and one half years. That is more manageable. That is the most important reason. We had \$60 million in supplementals in the last biennium. That's because we are trying to project so far ahead of ourselves. We're not capable of doing it accurately in the kind of changes that we see in the economy these days and for the size of budgets we have to deal with."

"There is a better way of dealing with these difficult issues. That was presented in the form of Rep. Grinde's bill for sessions in even-numbered years. The main point in that bill is you would have the interim to work on legislation. What HB 319 tries to do is to take what is presented in Rep. Grinde's bill and allow that mechanism for us to work over the interim and being able to bring the resolution of difficult bills back to the 30-day session. Rep. Grinde's bill does not provide for annual budgets. This bill is a better way to go. In terms of timing, it is difficult to do a budget the way we do now in a 90-day session. That's why HB 320 is brought to you now. If the constitutional amendment is approved, HB 320 would delay the start of the odd numbered year session in 1995 for 15 days so the session would not start until the third Monday in January. What would happen in that two week period and even before that after the leadership is elected in November, would be to begin Appropriations and Finance and Claims committee meetings in that time frame and begin work on the budget. Leadership would have a little bit of lead time to begin working on the rule changes and the statutory changes that would be required to implement this bill. The other thing that should happen in the first 1995 session, is to change the date for the beginning of even-numbered year session so that it doesn't start

until the first week of February. That would give the budget committees the month of January to begin doing most of the subcommittee work in the budget process. When everyone got here in February we would be able to come to the point where the bill is done with subcommittee work. The Appropriations Committee can work on the budget bill on the Senate floor within the first two weeks of that session. We could get some of that work done prior to when the session gets started and try to deal with difficult issues over the interim. We have to make a change of this magnitude some time soon. Our bi-annual budget is \$4 billion. It is impossible to manage that size of a budget over a two-year period. We aren't doing it and we won't be able to do it without a large number of special sessions. There are only seven states left that do bi-annual budgets. We need to look to the future, make some changes, and improve our process so we can do a better job with the total ninety days that we are currently allocated."

Proponents' Testimony:

Verner Bertelson, representing Montana Legacy Legislature, spoke in support of HB 319 and gave written testimony (EXHIBIT #1).

Amy Kelley, Director of Common Cause/Montana, spoke in support of HB 319 and submitted written testimony (EXHIBIT #2).

Herman Wittman, representing the Montana Legacy Legislature, spoke in support of HB 319. Mr. Wittman authored and sponsored Legacy Legislature Bill #28 which called for annual sessions. He also supported SB 131 submitted by Sen. Waterman. The bill was favorably received but received insufficient votes to place it on the ballot. He is now supporting HB 319 which generally calls for similar ends. "The bill varies slightly in the number of days but concern is for annual legislative sessions. The annual sessions would shorten the legislative sessions. They would also improve the legislative process. There would be continuity of the legislative process. Since the state government operates on an annual budget it would be appropriate to budget annually. Contingencies such as revenue shortfalls could be addressed without calling special sessions. Federal funding programs are annually oriented. Biennial sessions are out of step with this type of resource. State government now is so complex it requires volumes of complex bills to be considered. Annual sessions would spread the workload. The shorter session will also provide meetings annually that will make it possible for talented persons to avail themselves for service in the legislative process. Currently, many such persons cannot leave their business or professional practice for four months which is what it takes. Montana is one of seven states that still have the biennial sessions. We feel it is time we stepped up to the modern century. Also, most of the Montana newspapers have indicated their support for annual sessions."

Opponents' Testimony:

Lorna Frank, Montana Farm Bureau, spoke in opposition to annual sessions. "The Farm Bureau members have been opposed to annual sessions since the 1970's when there was such a fiasco. Bills were held over from one session to the other and this is the main reason why Farm Bureau members have always been opposed to annual sessions. Unless some kind of apparatus is put into this bill to make sure that this does not happen this time around, the majority of the farming and ranching people in the State of Montana will not vote for this kind of legislation. We realize that the current system is not working, but there could be a lot of things done to improve the system. But because of some of the costs and the bills being held over, the people will not like it. We did not oppose Rep. Grinde's bill because the meetings in the odd numbered years would only be for a week or two and we felt that would be the way to go with the bill. I would also like to compliment all of the legislators this year for their sincere effort in working together this session without the political bickering that we have seen in the past. This has been a good session for legislators working for the good of the state and they should be complimented for doing a good job. For those reasons we oppose HB 319.

Questions From Committee Members and Responses:

Sen. Pipinich asked Rep. Kadas if the length of days could be increased to 60/40, up ten days, which is less expensive than having special sessions. Rep. Kadas said that was talked about and he was trying to keep it as conservative as possible and keep it at 90 days. We can do it in 30 if we have the mechanism in place where we are getting a large portion of the committee work done in the interim and limiting the number of bills. In response to the opponent's testimony, it would be a good idea to amend this bill to say that no bill can be carried over. That once a session ends a bill has to start over from scratch to be introduced.

Sen. Pipinich asked if Rep. Kadas would support a 60/40 day session. Rep. Kadas said he did not think he would. This is an issue that we have to try to sell to the people of Montana and they would see it as an expansion. We can do a good job with the 90 days that we have.

Sen. Weldon spoke of selling it to the public and there was a philosophical pole in the state to allow the legislative branch to get "dusty" every other year. That is one of the attractions of allowing this kind of system to continue. He asked Rep. Kadas how he would approach a conversation with someone who says the legislative branch needs to be limited and this is one way to do it. Rep. Kadas said the Legislature is still inherently limited. It's absolutely important to maintain a citizen legislature. Even under this, we are talking about a few months in the winter.

Sen. Weldon said one of the concerns of the Farm Bureau is holding bills over from one year to another. Part of Rep. Kadas' bill is that bills have to be introduced by the committee process. He asked Ms. Frank if that process offset some of her concerns about carry-over bills. Ms. Frank said even though the bills would be committee bills, the people would perceive that as still being the possibility of being carry-over bills.

Sen. Weldon asked if the statement that bills could not be carried over, they would have to be re-introduced and started over, if that would help. Ms. Frank said that would be an alternative that would be agreeable to the people.

Sen. McClernan asked Rep. Kadas how many votes are required for this bill. Rep. Kadas said he received 64 in the House and he needs approximately 35 in the Senate. Sen. McClernan asked if the citizens would be out of the process if the bills went through a committee. Rep. Kadas said right now the citizens can only have input in the odd-numbered year. They could have input on the even-numbered year and they would still have access to all the hearings as they do now.

Sen. Swift asked Rep. Kadas if, having served on Appropriations, how would this particular approach restrict the real problem in the Legislature which is every year for the past six or eight years the increase has been around 10% or 11% of the total budget, particularly in the general fund. Why wouldn't another approach of restricting supplementals or tying the increase to the economy of the state or by personal income shifts to control the expenditure. The problem is budget and the increases are being driven by federal programs and supplementals. Rep. Kadas said there were other bills introduced to do that. There are two different issues here. The last two special sessions were caused by two basic reasons. One was supplementals driven by recommendations on changes in the SRS budget that the Legislature accepted that were predicted to flatten the growth of Medicaid expenditures and didn't. The Medicaid expenditures continued to grow at about an 18% rate which cost the state a lot of money. Second, on the income tax projections, we were off about .05% and that cost \$30 or \$40 million. We have a fairly sophisticated revenue estimating process but when you are looking that far ahead of you and are trying to accommodate changes in the National and State economy it is extremely difficult to project that far ahead. Whether you have limited budgets or not, you're still having to predict revenue expenditures. The other way around it is to leave a large ending fund balance, \$100 or \$200 million, and we would get beat up for doing that too, because the people would say "why don't you give that money back to the taxpayers."

Sen. Swift said if you look at personal income compared to the taxes there is a deficit almost every year. What this would do would give us twelve months instead of 24 months. We still would be in the same situation if there is no control mechanism in

place. Rep. Kadas said he does not argue that we need controls in place.

Sen. Hertel asked Rep. Kadas if HB 320 required there to be special committees to deal with the budget that would start right after the first of the year. Rep. Kadas said that was a decision that would have to be made by the leadership following the joint leadership caucuses in November. To make this work effectively, the budget and appropriations people would be working on those issues before the start of the session.

Sen. Fritz stated there was another bill submitted by Rep. Grinde waiting for executive action which would put a constitutional amendment on the ballot to have the Legislature meet in even-numbered years and that got over 90 votes in the House. He asked Rep. Kadas what his recommendation was on how to split the two contradictory constitutional amendments on the ballot and how to deal with this issue. Rep. Kadas said his bill deals with the overall problems that we deal with because it allows for annual budgets. He said he supported Rep. Grinde's bill as well because it is an improvement over the present system. We need to take the next step to fix it so it works instead of just fixing it some. The biggest problem is the budget problem and that problem will not be fixed with bi-annual sessions.

Sen. Fritz asked if Rep. Grinde's amendment would somehow be disposed of in order to give Rep. Kadas a chance. Rep. Kadas said that would be his preference.

Sen. Hockett asked Rep. Kadas about the fiscal note on this bill and if he knew what the savings or additional costs would be. Rep. Kadas said there was no fiscal note because there would be no fiscal impact on this biennium. In the next biennium, it would cost more to run a structure like he is proposing than it currently costs. The costs would be for legislators, appropriations committee and some standing committees to meet over the biennium.

Sen. Hockett commented that most legislators cannot afford to come here in November or to serve on interim committees that meet for longer periods of time. Rep. Kadas said he anticipates that the interim committees would be eliminated and replaced with standing committees that would operate during the session. For example, there are a number of natural resources issues that are rather contentious this session and probably a couple of others that will arise over the interim. The Environmental Quality Council tries to deal with issues like that and they meet every other month and what we would see is something like that kind of a schedule. As the session came closer, the committees would probably meet more often to finish work for the even-numbered year session.

Sen. Hockett asked if these committees would be non-paid activities or per diem and paid committees. Rep. Kadas stated it would be the same as the interim committees are paid now.

Sen. Hockett commented that his concern was the number of bills and how they are overwhelming now. He asked Rep. Kadas if he anticipated more or fewer bills. Rep. Kadas stated in the even-numbered years there would be fewer bills and much more consolidation of bills. In the odd-numbered year sessions it would be very much like it is now unless there would be restrictions in place.

Sen. Weldon asked Rep. Kadas what would happen if there was a contingent voidness clause in each of these bills. In other words, there is a possibility that these bills and Rep. Grinde's bill could end up on the same ballot. Rep. Kadas said he had not looked into that and the committee would have to look to the researcher. Mr. Petesch has been researching that issue on some other bills on how that would work.

Sen. Weldon said he would like to see both Rep. Kadas and Rep. Grinde's bill on the ballot. Rep. Kadas said if both bills were on the ballot and they both pass, since Rep. Grinde's bill does only half of what his bill does, his would probably be the one that was implemented.

Sen. Weldon said he would work with Mr. Niss to see what could be done to coordinate the two bills.

Sen. Pipinich said there were 23 committees on each side. He asked Rep. Kadas if these committees would meet all through the interim. Rep. Kadas said if a committee had requested a bill and the speaker or the president had assigned that bill to the committee, then the committee has reason to meet. Until there is a bill before that committee they have no reason to meet. The chairman of the committee would call the committee in to hear the bills and the chair may want to set up a subcommittee to work out the differences.

Sen. Vaughn asked if this would be disruptive to people in business to have to come in and meet on something. Rep. Kadas said that was done currently and it seems to work alright.

Closing by Sponsor:

Rep. Kadas told the committee he appreciated the hearing and if there were any questions he would be happy to answer them. And he would also be willing to work with the committee on amendments to the bills.

Sen. Fritz asked to set a date for the confirmation hearing for Commissioner of Political Practices, Ed Argenbright. Sen. Vaughn stated the hearing could be set for the first week in April and Sen. Fritz said April 6 would be a good date.

Sen. Pipinich asked if Sen. Fritz was going to recommend Ed Argenbright be confirmed. Sen. Fritz said he would present him. He said there is no way that the committee could draw up a recommendation not to confirm. The recommendation has to be drawn up like the other nominees to confirm and we will have a confirmation hearing.

Sen. Hockett said it was not mandatory for Sen. Fritz to come up with a recommendation. He researched the process, found out if there were pros and cons and what Sen. Fritz decides is his own personal business after the hearing. He is not asked to prejudge the person any more than any one else.

Sen. Vaughn said the resolution would be drawn to confirm and the hearing will be held. If the committee decides after they hear the pros and the cons that they do not want to confirm him then the committee has the choice to change the resolution. Sen. Fritz is just asking that the resolution be drawn. Mr. Argenbright has some people who would like to come to the hearing. Some people have been stating that they wanted to segregate him but there is no need for that because he will be on his own on the resolution. The hearing will be on Tuesday, April 6.

EXECUTIVE ACTION ON HB 317


Discussion: David Niss explained the amendments to HB 317 (hb031701.adn).

Motion/Vote: Sen. McClernan moved to AMEND HB 317. Motion to AMEND HB 317 CARRIED

Motion/Vote: Sen. Weldon moved HB 317 BE CONCURRED IN AS AMENDED. Motion HB 317 BE CONCURRED IN AS AMENDED CARRIED with Sen. Burnett and Sen. Swift voting no. Sen. Halligan will carry the bill.

ADJOURNMENT

Adjournment: 11:00 a.m.



SENATOR ELEANOR VAUGHN, Chair



DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 3-23-93

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

FC8

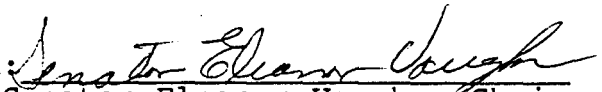
Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 317 (first reading copy -- white), respectfully report that House Bill No. 317 be amended as follows and as so amended be concurred in.

Signed: 
Senator Eleanor Vaughn, Chair


That such amendments read:

1. Page 3, line 8.
Following: "authorized"
Insert: "or required"

2. Page 8, line 22.
Strike: "promulgation"
Insert: "adoption"

3. Page 11, lines 9 through 13.
Following: "(6)" on page 11, line 9
Strike: the remainder of subsection (6) in its entirety.
Insert: "Title 2, chapter 3, part 2, applies to meetings of a negotiated rulemaking committee."

-END-

 Amd. Coord.
Sec. of Senate


Senator Carrying Bill

651225SC.San

HB 319 Annual sessions legislation: 7/2/88 15, 331

3-23-93

HB 319

Chairman, members of the Committee

I am Turner Bertelsen and today I am representing Mt. Legacy Legislature.

I am sure you will recall that we were strong supporters of Sen. Waterman's bill for annual sessions - We came up a few votes short to put this on the ballot -

We are so convinced that annual sessions ~~is~~ the only way we ~~are going~~ ^{will} solve many of our legislative problems that we ~~must~~ ^{strong} rise in support of ~~this~~ ^{of H.B. 319} legislation. We believe ~~they~~ ^{annual sessions} are the ~~only~~ best way to provide for better coordination and control of state budgets. ^{For me, I think cooperation will close enough.}

Our answer in the past has been to call for special sessions - We all know special sessions as a poor way to deal with the many problems which arise between sessions. We agree that we would probably still have an occasional emergency which might require a special session. We would, ^{however,} certainly eliminate the need for some special sessions. Since 1981 ~~the~~ ^{Montana} has spent 2.7 million dollars on special sessions. of that amount, \$876,578 was spent during the last 3 years. Special sessions are disruptive to the lives of legislators, often coming at an inconvenient and unplanned

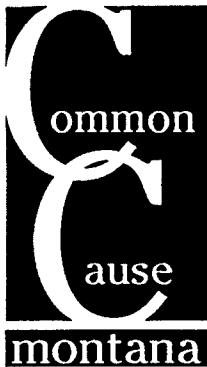
times in their lives and are not readily available
to citizens' interests.

Many people would like to serve in the legislature if they were required to be away from their homes for shorter annual sessions. - We feel new legislators could be better prepared to serve by the second annual sessions - I believe by allowing only committee bills for the second session a better control of legislation would exist.

No business would attempt to operate on a system such as ours - yet with the largest business in the state we propose to set budgets fully two years in advance with no opportunity to adjust to changing needs and changing income.

I would urge you to give Montana citizens an opportunity to vote on annual sessions - Please support H. B. 319.

Jane Bartlett
Mr. Segon, Legislature
1806 Main Ave.
Helena, Mt. 59601



SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 3-23-93

BILL NO. HB 319

COMMON CAUSE TESTIMONY
IN SUPPORT OF HB 319
MARCH 23, 1993

P.O. Box 023
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 for Common Cause/Montana.

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

On behalf of those members, I wish to register our support for HB 319, calling for a constitutional amendment to split Montana's current biennial 90-day legislative session into two annual sessions.

As you all are intimately aware, the problems the Montana Legislature must address during the 90-day session grow in number and complexity every year.

We have heard much frustration expressed -- by legislators and the public alike -- over the "pressure cooker" environment of the current biennial 90-day session model. One of the biggest frustrations is that, because budget issues have not been able to be adequately resolved in the regular session, special sessions have become an annual event.

In a special session, public participation suffers, as committees are unable to give adequate time to hearing citizen testimony, and bills fly through the process too quickly for constituents to have the opportunity to even hear about or contact their legislators about a specific bill.

In short, the current model is no longer working for Montana. Special sessions -- and therefore crisis management -- have become the rule, with major legislation being pushed through or killed in the final days of a session with little debate or public scrutiny.

The national trend has been toward annual or split sessions. In 1939, 44 states had biennial sessions. By 1961, that number decreased to 31. Today, only seven states -- including Montana -- have biennial sessions.

In 1987, two-thirds of the Montana legislature voted to place a constitutional amendment on the ballot to allow the Legislature to meet yearly. Common Cause and a variety of citizen groups and legislators worked hard to support that amendment.

That constitutional amendment failed on a very close 49 - 51% vote. Common Cause felt the major reason for that failure was the unnecessarily high fiscal note placed on the ballot. The costs presented did not, we feel, adequately reflect the savings involved in eliminating the need for special sessions.

Montana has no need for, nor could it afford, a full-time Legislature. However, there is a need to give Montanans a more timely and responsive method of lawmaking that meets the increased demands placed upon the Legislature.

Split sessions can achieve that goal:

- * They would give the Legislature the ability to split its activity, addressing policy issues in odd-numbered years, and revenue and appropriations matters in even-numbered years.
- * They would allow more citizens to run for office, citizens who are currently unable to participate in a four-month session.
- * They would allow the Legislature to respond when necessary to real emergencies without calling special sessions.
- * They would shorten the session and thus reduce legislator and public "burnout."
- * They would spread out the work of bill drafting, resulting in higher quality laws.
- * They would allow for better dissemination of information to the public, and better participation by the public in the process.
- * They would be a more efficient use of taxpayer money, preventing the need for expensive special sessions every year.

Splitting the current biennial legislative session into two annual sessions makes sense for Montana. We strongly urge a "do pass" from this Committee on HB 319.

Amendments to House Bill No. 317
Third Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
March 9, 1993

1. Page 3, line 8.
Following: "authorized"
Insert: "or required"

2. Page 8, line 22.
Strike: "promulgation"
Insert: "adoption"

3. Page 11, lines 9 through 13.
Following: "(6)" on page 11, line 9
Strike: the remainder of subsection (6) in its entirety
Insert: "Title 2, chapter 3, part 2, applies to meetings of a
negotiated rulemaking committee."

DATE 3-23-93

SENATE COMMITTEE ON State Admin.

BILLS BEING HEARD TODAY: HB 319, HB 320

Name	Representing	Bill No.	Check One	
			Support	Oppose
Herman Wittman	Legacy Legislature	319	<input checked="" type="checkbox"/>	<input type="checkbox"/>
James Beutelen	Legacy Legislature	HB 319	<input checked="" type="checkbox"/>	<input type="checkbox"/>
AMY KELLY	(Common) CAU35	319	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Thomas		319 & 20	<input type="checkbox"/>	<input type="checkbox"/>
Lorna Frank	Nat. Farm Bureau	HB 319	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kati Williams		HB 319-320 HB 176	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY