

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By Senator Vaughn, on December 1, 1993, at 10:30 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  
Sylvia Kinsey, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: SB 5, SB 6, SB 7  
Executive Action: SB 6 DO PASS  
SB 7 DO PASS

#### **HEARING ON SENATE BILL 5**

**Opening Statement by Sponsor:** Senator Bob Brown, Senate District 2 explained Senate Bill 5 which was introduced at the request of the Commissioner of Political Practices and the office of Budget and Program Planning. It increases the license fee for certain lobbyists and an attempt was made to keep from offending any group which could kill the bill. As the current law reads, lobbyists pay a fee of \$10 and there is no filing fee for someone from state government. He said there are about 500 registered lobbyists and the increase in general fund revenue would be about \$7500 and with the approximately 300 people lobbying from the state agencies there would be another \$3,000. The current law generates about \$5,000 for the general fund and if this bill

should pass as it has been introduced the amount would increase to \$15,500 or a total difference of about \$10,500. Those he had talked to agreed the fee should be increased. It was established 35 years ago with no increase in spite of the many requirements which have been added, which includes the creation of the commissioner's office. He pointed out the CPI (consumers price index) applied to the 1959 \$10 fee would be equivalent to \$49.62 today. He would have no objection if the committee wanted to impose a \$50 fee, nor would he object if the committee wanted to impose the same fee on the state employees and everybody else.

**Proponents' Testimony:** Ed Argenbright, Commissioner of Political Practices said he was in favor of increasing the fees and would have no objection to a \$50 fee. He said his office does provide the information about reported expenditures that are made to influence legislation and they do want people to continue to register and have the information available, so that aspect should also be considered. He felt this effort is both timely and appropriate since his office is dependent on general funds.

George Ochenski, speaking for himself as a lobbyist, said he represents a wide variety of clients, both corporate, non-profit and tribal and felt \$25 was probably a little low. He believed it should be a staggered system that takes into account non-profit and low income coalition which should not have to pay the same amount the corporate lobbyists do. There are a lot of people here to primarily protect business interests and those are a lot different than public policy interests. He suggested in return for the higher fees he would like to see the Commissioner's office give him a simplified electronic filing format which could be used. It would be some sort of simple data base template he could pop into his computer, fill in the blanks and give to the Commissioner to reduce paper work. It would make both his and the Commissioner's job easier and the public could be informed much quicker on who is spending how much money on which issues. He said he would also like to see the entire policing of the lobbyists corps tightened up because he felt the lobbyists were receiving as much scrutiny as they are giving the legislature.

Tom Schneider said he represents the Montana Public Employees Association, but was speaking as a lobbyist who pays the fee. He believed it necessary to raise the fee and suggested earmarking the fees to build some parking. He pointed out that it was not good to have people coming into town to attend a hearing and be unable to find parking.

Amy Kelly, Director of Common Cause Montana, spoke in favor of Senate Bill 5. She said her organization agrees the filing fees are too low and they have advocated in the past several sessions that the fees be increased. She said reporting requirements are very important so the public knows what is being spent to influence the legislature, it costs money to turn in those reports and to look them over. She urged that lobbying not be

over penalized, but was concerned about the constitutionality of having different fees for different principals and felt there might be no rationality for having non-profit versus profit because a non-profit group would not necessarily be a low income group. She would advocate the committee look into establishing a lobby fee for the lobby principals as well as the lobbyists since one lobbyist can lobby for 10 or 20 principals and pay one fee which is split up between them to pay for the one lobbyist. She said her organization feels this office needs more money to carry out it's duties.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: Senator Weldon said he had discussed the bill and ways it might be adjusted with the sponsor. They had talked about the staggered fee system with different fees being applicable to different kind of lobbyists and asked the sponsor to address it.

Senator Brown said some resentment might be engendered if a distinction is made between private sector and public sector lobbyists since we could get into the area of Blue Cross/Blue Shield and other larger co-operatives, what constitutes a non profit organization and what does not. He said he was flexible but believed a fee should be applied which appears to be reasonable and apply it equally to everyone.

Senator Weldon asked if there were any precedent in the state currently where there are fees which are staggered for various reasons, perhaps including income associated with fees. Mr. Doug Mitchell, office of Secretary of State, said their office does pay a different fee for articles of incorporation depending on whether the corporation declares they are a profit corporation or a non profit corporation. The fees are divergent and a non profit corporation pays substantially less.

Senator Weldon said one of the questions associated with this is the increased fees and perhaps making the process easier. The suggestion was an electronic filing system and asked Commissioner Argenbright if he had plans for such a system to make his office more efficient. Mr. Argenbright said he had appointed a task force which is not representative of special interests. It is four members of the Legislature, people from the media, ranchers, attorneys, etc. It is a group of Montanans that have set a good example by accepting the responsibility to meet and tackle the question of what can be done to make reporting easier for candidates and the information more accessible. He said that is one of the questions the task force is dealing with and hopefully by next April there will be some recommendations put forward. We have fairly antiquated computer capacity in the office now, and

are looking at ways of becoming more efficient.

Senator Hockett said he was not opposed to raising fees, but was concerned that some of the businesses in Montana would feel this is just another way of increasing fees and taxes on them. He asked if there was any one who had done a comparable lobbyist fee in adjacent states. Senator Weldon said David Niss, Legislative Council, has been looking into this and would hope by the time the committee took executive action he would have the answer.

Senator McClernan asked whether the sponsor had considered earmarking the fees so they would go back into the Commissioner's office. Senator Brown said earmarking was being frowned upon by many legislators.

Senator Fritz pointed the philosophy against earmarking runs counter to privatization since if those operations were privatized, at least on the disclosure, we would then want to charge a fee commensurate with the cost of doing that kind of business in the office. He asked if this were to be done what level of fees should be charged, given the number of lobbyists in recent years. Senator Brown posed a possible solution and Mr. Argenbright said with the various duties in the office he had no idea what the cost would be.

Senator Tveit said he was concerned about the state lobbyists having a lower fee. He pointed out it might be putting two and a half state lobbyists at \$25 against another lobbyist at \$25 and asked if this was fair since there could be several state lobbyists in one agency for \$10 and the other lobbyist at \$25. Senator Brown said he could see this point also, and the bill would now have a fee which it did not have before. He said it would not be a problem to him personally if the same fee were established for everybody.

Senator Swift asked if the individual coming in at various times to represent his own organization from the public would be affected by this fee increase. Senator Brown said if a private individual just wanted to speak his/her piece about some kind of a problem they would be clear. He believed the law said the lobbying had to be done for hire before they had to register. If someone is lobbying for an organization and expenses are being paid and if the expenses exceed \$1,000 they would be required to register.

Senator McClernan said in regard to state lobbyists, he did not believe it was important because that employee did not pay the fee himself, it came out of the agency.

Senator Tveit said because it is a cheaper fee, for the same dollars and an agency can put on more lobbyists which makes an uneven balance. There should probably be more of an even fee and if an agency thinks it is important enough and can find it in their budget they can put on more lobbyists.

Senator Hockett asked how you would identify state or federal employees that are actually lobbyists. He referred to the University System as an example where people are here almost constantly and then others are here frequently but not constantly. He asked when you could differentiate between a lobbyist and a state employee who was here on business. Mr. Argenbright said if they lobby and if part of their paid duties is to lobby, then it is a requirement that they be registered.

Chair Vaughn said there was a mention that each principal should pay \$25 in addition to the lobbyist. She asked if Senator Brown had any comment on that and was told as he recalled there were about 433 principals that registered with the Commissioner's office in the 1993 session and they hired about 500 lobbyists. He believed it was more common for a lobbyist to represent several principals than for a principal to hire more lobbyists. He suggested some thought be given to fees so they did not become too burdensome for people.

Closing by Sponsor: Senator Brown said he believed Mr. Mitchell's comment that the Secretary of State's office has a structured fee schedule depending on corporations being profit or non profit. He urged the committee to remember we are talking about, as Ms. Kelly said, a rational basis for making this distinction when people petition their government under the first amendment and he did not believe the issues were the same. He urged careful consideration of the committee on this because he was not certain we could say one interest group or one individual should have to pay a higher price to petition the legislature than another.

#### HEARING ON SENATE BILL 6

Opening Statement by Sponsor: Senator Gary Forrester, Senate District 49 explained Senate Bill 6 as a bill that addresses only Legislators. It increases the candidates filing fees from \$15 to \$50 and the fiscal note shows a difference of about \$10,000 which would be general fund money. He said he believed Legislators, the same as any other part of government should pay the cost of doing business.

Proponents' Testimony: Doug Mitchell, Secretary of State's office, said this bill comes as a result of their budget submission and discussions before their subcommittee. In looking at the bill the filing fees for candidates is typically a formula. It is 1% of their annual compensation and while legislative fees have not gone up, legislative compensation has gone up. He said while they administer the elections the Commissioner's office administers the candidacies and it is reasonable that this general fund pass through money should also be used to help that office.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: Senator Tveit asked Mr. Mitchell if there would be rebates for a candidate that lost. Mr. Mitchell said legislative filing fees are not refundable except for some oddity that could occur.

Senator Hockett referred to line 19 of the bill and said he would be interested in knowing what kind of compensation these people make and if it is fairly substantial, why not go to a percentage of that. Mr. Mitchell said this could be done, did not know what offices these might be, but would assume they could be a local office where there was a small fee. Senator Hockett asked if the information could be obtained in regard to who would receive these fees and something about them. Mr. Mitchell said he would do so.

Some comments were made in regard to 1% or 3% and would it be on the annual salary. Mr. Mitchell said there is a mechanism in place for anyone who cannot afford to pay the filing fee so they can still run for an office.

Closing by Sponsor: Senator Forrester said this is a small thing, but shows a little of the spirit of the legislature.

#### HEARING ON SENATE BILL 7

Opening Statement by Sponsor Senator Gary Forrester, Senate District 49 said Senate Bill 7 would eliminate one of the workshops the Secretary of State puts on. This bill would allow an election workshop to be held every other year rather than every year as they do now.

Proponents' Testimony: Doug Mitchell, Secretary of State's office said this bill is a part of their budget bill which reduces general fund money from their budget. The state law provides that the Secretary of State's office conduct election workshops for election administrators every year. They get the election administrators together to discuss changes in the law, forms, legal matters, etc. and are very valuable sessions. There would be little negative impact as long as we keep the even numbered workshops. These happen after an election and we can talk about the changes in law that will go in effect in October. As long as they could do that as well as participate in the Clerk and Recorder's private convention in the even numbered years, the election administrators felt they would be adequately informed. This bill will not stop any significant number of services and in instances where there were new Clerk and Recorders, the Sec. of State's office has traveled to train them on site and this will be continued upon request.

Opponents' Testimony: None.

**Informational Testimony:** None.

**Questions From Committee Members and Responses:** Senator Hockett asked if the meetings were held in Helena. Mr. Mitchell said they held the last one in Helena, and prior to that they held regional meetings. They found there was no substantial cost savings because they had two sets of conventions to put on and the travel miles were not substantially reduced.

In answer to a question on which year is used, Mr. Mitchell said there is some confusion on that. They held the convention in July of 1993 which is fiscal year 1994 and need to keep the even numbered year appropriation to run the odd number of year programs.

Chair Vaughn as a former Clerk and Recorder said those she had talked with had no problem with this bill and the Secretary of State's office has always been there to answer any questions. She felt confident they could work this out with only the one meeting and still have them well versed with what needs to be done for elections.

**Closing by Sponsor:** Senator Forrester closed by saying he felt this was a good bill and if problems should arise in future years they may be able to address them, and with the fiscal crisis at the present time it is another small piece to save.

#### **EXECUTIVE ACTION ON SENATE BILL 7**

**Discussion:** Senator Hockett said he would like to have someone look at the fees before executive action is taken. Mr. Mitchell said because these would be local officials it would take some time to find out who these people might be.

**Motion/Vote:** Senator Swift moved Senate Bill 7 DO PASS. Motion carried unanimously.

#### **EXECUTIVE ACTION ON SENATE BILL 6**

**Motion to Amend:** Senator Fritz moved to AMEND SB 6 to Senate candidates \$100, House members \$50.

**Discussion:** Senator Fritz said his rationality on this amendment was that the House had to file every 2 years and the Senate did not.

**Vote:** Motion failed 3-6, roll call vote.

**Motion/Vote:** Senator Pipinich moved SB 6 DO PASS. Motion carried with Senator Fritz voting no and Senator Burnett absent.


There was no action on Senate Bill 5 and some discussion was held

on fees on principals and on lobbyists. Chair Vaughn said she understood there would be some amendments offered for this bill. Senator Weldon said he would do some investigation as to a reasonable fee and would modify his amendment to it. Senator Weldon said he was considering a fee per principal. Each principal needs to file a report with the Commissioner now and the fee would be associated with that report.

Chair Vaughn thanked Senator Weldon and David Niss for the work they have done on this bill.

**ADJOURNMENT**

Adjournment: 11:45 a.m.

  
SENATOR VAUGHN, Chair

  
SYLVIA KINSEY, Secretary

EV/sk



## ROLL CALL

SENATE COMMITTEE on STATE ADMINISTRATION DATE 12-1-93

[illegible]

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

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December 1, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 6 (first reading copy -- white), respectfully report that Senate Bill No. 6 do pass.

Signed: Senator Vaughn  
Senator Eleanor Vaughn, Chair

SENATE STANDING COMMITTEE REPORT

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December 1, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 7 (first reading copy -- white), respectfully report that Senate Bill No. 7 do pass.

Signed: Senator Vaughn  
Senator Eleanor Vaughn, Chair

## ROLL CALL VOTE

SENATE COMMITTEE ON STATE ADMINISTRATION

Senate  
BILL NO. 6

DATE 12-1-93

TIME 11:40

A.M. P.M.

[illegible]

**SECRETARY**

## CHAIR

MOTION: Amend Senate to \$100 Rep to \$50

Motion by Sen Fritz

DATE 12-1-93SENATE COMMITTEE ON State AdministrationBILLS BEING HEARD TODAY: SB 5-6-7

&lt; ■ &gt; PLEASE PRINT &lt; ■ &gt;

Check One

Name	Representing	Bill No.	Support	Oppose
Ed Argenbright	Pol Practices	5	✓	
AMY KELLEY	COMMON CAUSE	5	✓	
GEORGE OCHENSKI	SELF (AS A LOBBYIST)	5	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY