

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By VICE CHAIRMAN MATT DENNY, on February 6, 1995,
at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Matt Denny, Vice Chairman (Majority) (R)
Rep. Dore Schwinden, Vice Chairman (Minority) (D)
Rep. Patrick G. Galvin (D)
Rep. Dick Green (R)
Rep. Antoinette R. Hagener (D)
Rep. Harriet Hayne (R)
Rep. Sam Kitzenberg (R)
Rep. Bonnie Martinez (R)
Rep. Gay Ann Masolo (R)
Rep. William Rehbein, Jr. (R)
Rep. George Heavy Runner (D)
Rep. Susan L. Smith (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Joe Tropila (D)

Members Excused: Rep. Richard Simpkins (R)
Rep. Matt Brainard (R)

Members Absent: none

Staff Present: Sheri Heffelfinger, Legislative Council
Christen Vincent, Committee Secretary

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

Committee Business Summary:

Hearing: SB 24, SB 94, SB 37
Executive Action: None

HEARING ON SB 94

Opening Statement by Sponsor:

SEN. LINDA NELSON, SD 49, stated this bill clarifies the
procedure for write-in elections. She stated this is an
important bill. She told a story of what happened in Sheridan

where a person registered as a write-in candidate. Eventually he lost because it was unsure which name the voters used on the ballot. The election administrators instructed the election judges per law that they would have to know without a doubt the intent of the voter. The bill currently requires the candidates to file using their various names such as the first, last, nickname and any others that the person is known by. The intent of the bill is to clear up ambiguity and to not have to rely on opinions, to know the law up-front and to see it in "black and white." This isn't just a local problem and it needs to be addressed. She stated this is a good bill and she had some amendments for the committee to consider.

Proponents' Testimony: none

Opponents' Testimony: none

Informational Testimony:

Joe Kerwin, Election Bureau Chief, Secretary of State's Office, stated the reason for the amendments are to clarify. The bill states the voter has to identify the running candidate in one of several methods. There are certain instances when they need this.

Questions From Committee Members and Responses: none

Closing by Sponsor:

SEN. NELSON closed by stating she hoped the committee would give this a do concur recommendation.

HEARING ON SB 37

Opening Statement by Sponsor:

SEN. AL BISHOP, SD 9, stated section 16, page 9, is what the bill is about. This is a constitutional referendum to be submitted to the people on the November 1996 election ballot to vote whether or not to abolish the Secretary of State's Office and combine with the Lieutenant Governor. He stated this bill is a product of the Governor's Task Force to Renew State Government and is one of their recommendations. In September of 1994 a poll showed about 62.4% of the people were in favor of this. At that time they were thinking of doing away with the office of Lieutenant Governor and having the Governor and the Secretary of State run together as a team. A lot of people didn't like that idea because they believed the office of Lieutenant Governor is the one to succeed to the office of Governor if something were to happen. They amended the bill to eliminate the office of Secretary of State and move all functions into the Lieutenant Governor's office. This is something that many states are doing or are considering doing for many reasons. Some of those reasons

are to save money and to reduce the dilution of the executive power.

The Secretary of State in Montana doesn't have policy making power. They are charged with keeping corporate records, election records, and other records of the state of Montana. The Lieutenant Governor is charged with the succession of the Governor under the constitution and other duties that the Governor might assign to them. This delineates what the Lieutenant Governor will do; he will succeed the Governor and will take over all duties of the Secretary of State's Office.

Montana has six elected executive officials, some states only have one. This will not only save money but will bring accountability as well. There were some problems on some things that happened on the floor when he presented this bill for second reading. In the original bill it involved the Department of State Lands. The State Land Board is comprised of five people; the Governor, Superintendent of Public Instruction, Auditor, Attorney General, and Secretary of State. If they were to do away with the Secretary of State they didn't want the Land Board to give the Governor two votes. They amended it to say the four remaining people will choose a list of three to five people that they will submit to the Chief Justice to choose the final member of the board. He talked to Secretary Cooney about this and he agreed with the concept of the bill. It was also amended on the floor that in case of a veto by the Governor the votes will be turned over to the Attorney General. He said there would be a savings of about \$129,000 a year.

Proponents' Testimony:

Dennis Rehberg, Lieutenant Governor, State of Montana, stated he had been a proponent from the beginning of the bill. When he was chairman of the General Government and Highways Appropriations Subcommittee, they began melding the offices of the Lieutenant Governor and the Governor. He stated he serves at the right hand of the Governor and asked why do they have to have their own staff. They have since reduced his staff down to two people and he has begun using the Governor's staff. He has always believed that since he serves at the right hand of the Governor he should be able to use the Governor's staff as his own because they are a team. They aren't trying to change that.

Oftentimes in government they are reluctant to change something. He stated he didn't think they would be doing that with this bill. He said the constitutional duty for Lieutenant Governor is to succeed if something should happen to the Governor. Although they don't want that to happen, he always feels like he is the man waiting in the shadows, waiting for some disaster to happen. This bill makes good government sense. It is no longer the case that they need to spread out the duties among a number of executive branch offices and it is no longer necessary. Through consolidation they could make government look like it makes

better sense to the public who has never really understood what the Lieutenant Governor does. By doing this they could perhaps bring some commonness and trust back to the government. He asked the committee to look favorably on this bill.

Doug Mitchell, Chief of Staff, Secretary of State, stated they think merging the office of Lieutenant Governor and the Secretary of State is something that can be done and done in an organized fashion. He said they have different ideas about where this can go, but as the bottom line, putting these two offices together and eliminating the Secretary of State's office is a move that makes good sense and merits the committee's serious consideration. He stated their office would still like to see them elected separately.

Opponents' Testimony: none

Informational Testimony: none

Questions From Committee Members and Responses:

REP. STOVALL asked about the three candidates the board would choose. He asked what kind of primary would be on those three candidates.

SEN. BISHOP stated there would be three to five candidates for the board members. If they cannot agree, the Chief Justice will decide. There really won't be any criteria for doing this. He stated he felt the four people on the board would pick people who could add to the Land Board.

REP. STOVALL asked if the Governor were to die or had an extended illness, who would take over as the Lieutenant Governor.

SEN. BISHOP stated the Lieutenant Governor would be appointed by the Governor. If something were to happen to both of them they would then have to refer to the statutes to see who would succeed in a case like that.

REP. GALVIN stated on the fiscal note it says "will result in some duplication of administrative and administrative support resources." He asked the sponsor to elaborate on that.

LT. GOV. REHBERG stated when he read that he thought it should have said the consolidation of the Secretary of State's Office and the Lieutenant Governor's Office will result in the reduction of duplication. The way they understand it today there are a number of duplications that already exist.

REP. SQUIRES stated one of her biggest concerns with this unification is with the Land Board. She stated if the Governor and the Lieutenant Governor share the same political persuasion, they have two others to balance it out. She asked how this bill will mill out. She stated there seemed to be hostility. People

want to be a part of a deciding process. She asked him to address that.

{Tape: 1; Side: B.}

SEN. BISHOP stated he was evolved in the middle of that. There wasn't any partisanshp, it had nothing to do with that. This was confirmed in the Senate and did a good job. He didn't think the people on the board will disagree on the three to five people to submit to the Chief Justice. He stated he didn't see that as a problem.

REP. SQUIRES stated that the request was that people wanted to participate and vote for those individuals.

SEN. BISHOP stated the Land Board is a very important board. It was thought they had cleaned up the Land Board problem. He stated he didn't think it would be a problem.

REP. SCHWINDEN complimented **Mr. Mitchell** and the Secretary of State's Office for the reductions they have made in the past. He stated he was going to support this bill as well. He did have two areas of concern, one being the Land Board issue and the other being the Chief Election's Official issue. He stated he had a problem with the Lieutenant Governor assuming that duty. He asked if there were any recommendations he could make which would separate that from this process.

Mr. Mitchell stated they have looked at that issue and it has been brought to their attention. He stated the Senate had a concern about the veto polling. He stated if the Governor vetoes a piece of legislation after the session, the Secretary of State is in charge of conducting what is essentially an election. The Senate amended the bill to remove that provision from their office. In states that have a similar structure as the one proposed, there are other ways that they do this. They have basically two options. They could put it in the Justice Department and ask the Attorney General to do that function, which is what he believed the Senate did with the polling function. They could also have a separate elections commission which he stated is becoming popular. It would be a combination of elections and political practices.

REP. SCHWINDEN asked if in this bill as it stands now, the polling veto is the only part of the election duties that has shifted over to the Department of Justice. He asked if he was correct.

Mr. Mitchell stated that was correct.

REP. GALVIN asked in states where there is no Lieutenant Governor, if they run as partners or if they run independently.

Mr. Mitchell stated there is a mix. There are some states where they run separately and there are some that run as a pair. He stated one of the reasons they had suggested they changed the elimination of the Lieutenant Governor to the Secretary of State's Office was because there is currently no state in the United States that runs their Secretary of State and the Governor together. He stated there are four states that have the Secretary of State and Lieutenant Governor that are one in the same and have the same functions. In every case they are referred to as the Lieutenant Governor.

REP. SCHWINDEN asked **SEN. BISHOP** if he served on the Renew Government Task Force.

SEN. BISHOP stated he hadn't.

REP. SCHWINDEN asked how the physical make-up of the second floor of the capitol would be if this were to go into effect. He asked if the Lieutenant Governor's office would move to the west wing to assume the duties. He asked how he could see that happening.

SEN. BISHOP stated he didn't think anyone had thought that far ahead. He stated it was just a matter of using the space to the best of their ability. He stated the Secretary of State's Office did a great deal of work with the elections. If they would start to move that around they would just be making something somewhere else.

REP. SCHWINDEN stated the functions exists as it is, whether it is in the Department of Justice and the Attorney General or it exists under the Lieutenant Governor, it still needs to exist because those functions will not change.

SEN. BISHOP stated that was true. If they were to fragment that and put the election process under the Attorney General all they would be doing is creating other bureaucracies.

Mr. Mitchell stated there are a lot of people who are surprised when they learn the elections division is the smallest division.

REP. TROPILA asked what they intended to do with the Task Force recommendation.

Lt. GOV. REHBERG answered by stating they were going to eliminate the office of Lieutenant Governor and a FTE and have the Secretary of State in with the Governor. He stated he wouldn't mind going back to the way it was before the 1972 constitution passed. They spent a lot of time during the 1972 constitutional convention making the determination that if there was the issue of succession they wanted someone who had been in Helena, besides the Governor, who had been watching the issues and could take over in a orderly transition. He thought that was the reason why they wanted the Lieutenant Governor here. They are paying

attention to the same issues and in many cases working on the same issues. He believed that was the reason people want them to run together, because of the turmoil that could be created. This is a protection of trying to bring some kind of sense if something were to happen to the governor. He thought it was important to have the two tied together, and thought it was important to have a Lieutenant Governor who has a global perspective of the issues.

REP. TROPILA asked what would happen if they aren't in the same party as a team.

LT. GOV. REHBERG stated the problem is created again. They want a Lieutenant Governor who can take over in the absence of the Governor who has been there on a regular basis and is up to speed on the issues. They don't want a Lieutenant Governor who is doing a part-time job. He stated there is a lot of time to think about it and a lot of things they can do if they want to talk about elections. He wouldn't get bogged down on that part of it until after the next election to see if they want to accept the merging or not, because this can't take effect until the year 2001. All they are asking the committee to do is agree with the concept of the merging. A lot of the other things can be taken care of at another date.

REP. GALVIN asked if they have considered giving the electorate the opportunity to decide which office to do away with.

SEN. BISHOP stated they haven't considered that. He said he would rather not comment on that. He did say he had talked to a lot of people in his district and they aren't sure what the Secretary of State does. They do know about the Lieutenant Governor. In their eyes, he is there if something happens to the Governor. He didn't think they would understand the concept of doing away with the Lieutenant Governor's Office.

REP. STOVALL asked if something were to happen to the Governor, if the Lieutenant Governor would be the one to appoint another Lieutenant Governor.

SEN. BISHOP stated he was correct.

REP. STOVALL asked who takes over the Lieutenant Governor's duties between the time the Lieutenant Governor takes over as Governor and he appoints another Lieutenant Governor.

SEN. BISHOP stated the office would have all the people there and it wouldn't be a long interval of time.

REP. STOVALL asked about how long he believed it would be.

SEN. BISHOP stated that would be up to them. He said he wouldn't know, but he is sure the Lieutenant Governor would have someone in mind.

Closing by Sponsor:

SEN. BISHOP closed by stating this is a constitutional referendum. He said they are not changing the law with this bill, they are just referring an idea to the people to vote on. This will not take effect until January 1, 2001.

HEARING ON SB 24**Opening Statement by Sponsor:**

SEN. CHARLES SWYSGOOD, SD 17, stated this is a bill for an act entitled: "An act revising the laws governing voter information pamphlets to require a voter information pamphlet to be sent with certain absentee ballots if there is a statewide ballot issue on the ballot; revising the time for submitting arguments advocating acceptance or rejection of a ballot measure; revising the time for printing the voter information pamphlet; and amending sections 13-13-214, 13-27-406 and 13-27-410, MCA." He said the reason this bill was before the committee was because he had had a lot of comments from clerks and recorders about the people not being able to get their voter information pamphlets. Under current law, absentee ballots have to be mailed 45 days before the election. Under the current law, voter's information pamphlets are not made available until the Thursday before the election. Where there are a number of people who have used an absentee ballot, those people do not get a voter's information packet. He stated he talked to the Secretary of State's Office and they came up with this bill which would allow the information packets to be available for distribution with the absentee ballots by moving the dates of printing. Some people don't know what they are really voting on. This bill allows for a fair opportunity.

Proponents' Testimony:

Joe Kerwin, Election Bureau Chief, Secretary of State's Office, stated they support this bill. He thinks it is a very good measure and will be very important for them to get this information to the voters. Since they are asking these people to vote on a number of different issues, they should have the information to vote. Without these voter's information pamphlets the people voting by absentee ballot have a hard time trying to make an educated guess on what they are voting for or against. This is an important tool to allow them to do that. It also balances administrative and financial concerns.

Arlette Randash, Eagle Forum, stated she had worked with grassroots organizations for over three years. They network with people across the United States. They constantly get calls as the election approaches to inform people on the issues. This is something that is quite often stressed to them, that they wish they could get information. She stated they believed the sponsor

had come up with an easy solution to increasing the education of the people who are voting absentee, and encouraging participation in the government process. She stated they all benefit when that happens. She asked the committee for their favorable consideration of this bill.

Chris Imhoff, Legislative Chair, League of Women Voters of Montana, submitted written testimony. **EXHIBIT 1**

Opponents' Testimony: none

Informational Testimony: none

Questions From Committee Members and Responses:

REP. TAYLOR asked if the voter's information pamphlets will be mailed first class.

Mr. Kerwin stated he thought that was correct. He stated they would have to check the statute.

REP. TROPILA stated the information pamphlets would be mailed by bulk mail. He asked if there would be some expense.

Mr. Kerwin stated there would be some expense.

Closing by Sponsor:

SEN. SWYSGOOD closed by stating there would be a little added expense as far as postage goes. He stated he assumed these would be mailed out with the absentee ballots. The price would vary from county to county.

ADJOURNMENT

Adjournment: 10:00 a.m.



RICHARD SIMPKINS, Chairman



CHRISTEN VINCENT, Secretary

RS/cdv

HOUSE OF REPRESENTATIVES

State Administration

ROLL CALL

DATE 2-6-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Simpkin, Chairman			✓
Rep. Matt Denny, Vice Chairman, Majority	✓		
Rep. Dore Schwinden, Vice Chair, Minority	✓		
Rep. Matt Brainard			✓
Rep. Pat Galvin	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Sam Kitzenberg	✓		
Rep. Bonnie Martinez	✓		
Rep. Gay Ann Masolo	✓		
Rep. Bill Rehbein	✓		
Rep. Susan Smith	✓		
Rep. Jay Stovall	✓		
Rep. Carolyn Squires	✓		
Rep. Lila Taylor	✓		
Rep. Joe Tropila	✓		

League of Women Voters of Montana



WRITTEN TESTIMONY SUBMITTED BY THE LEAGUE OF WOMEN VOTERS OF MONTANA

House State Administration Committee
9:00 a.m., Monday, February 6, 1995
Senate Bill 24 by Swysgood

The League of Women Voters believes that democratic government depends on the informed and active participation of its citizens in the voting process. Working to inform the voting public has been one of the guiding principles of national League activity for 75 years, and of League of Women Voter efforts in Montana for 40 years. Senate Bill 24, requiring that a voter information pamphlet be sent with each absentee ballot if there is a statewide ballot issue on the ballot is to be commended for facilitating and promoting an informed voting public.

The League of Women Voters of Montana endorses Senate Bill 24 and urges a do pass recommendation on this measure.

Thank you.

Chris Lambert
Legislative Chair, LWVMT

EXHIBIT One
DATE 2-6-95
BB 84

Amendments to SB 94

Amend Page 2, Section 2., Line 25, Following "."
Insert: "Except as provided in 13-10-211(4) A a"

Amend Page 3, Section 3., Line 4, Following "":
Insert: "Except as provided in 13-10-211(4) A a"

Amend Page 3, 'Add new section.

Section 13-15-202, ...

(1)(b) Except as provided in subsection (1)(b), the judges may not count or record write-in votes for candidates who have not filed a declaration of intent as provided in 13-15-201, and a write-in vote may be counted only if the write-in vote identifies an individual by any of the designations filed pursuant to 113-10-211 (1)(a)(I) through (1)(A)(IV). ~~except as provided in subsection (1)(b).~~

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Admin.

DATE 1-6-95

BILL NO. SB 94 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Joe Kervin	SOS - informational		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Admin

DATE 1-6-95

BILL NO. SB 24 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Joe Kernin	SOS	X	
Arlette Randal	Eagle Forum	x	
Laurie Koutnik	CC of mt	x	
Chris Inhoff	League of Women Voters of mt	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Admin

DATE 1-6-95

BILL NO. SB37 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
DOUG MITCHELL	SECRETARY OF STATE	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.