

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

**Call to Order:** By **CHAIRMAN RICHARD SIMPKINS**, on February 14, 1995, at 9:00 A.M.

ROLL CALL

**Members Present:**

Rep. Richard D. Simpkins, Chairman (R)  
Rep. Matt Denny, Vice Chairman (Majority) (R)  
Rep. Dore Schwinden, Vice Chairman (Minority) (D)  
Rep. Matt Brainard (R)  
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:** NONE

**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:	HB 362, HB 494
Executive Action:	HB 376 DO PASS AS AMENDED
	HB 362 DO PASS AS AMENDED
	HB 494 DO PASS AS AMENDED
	SB 37 DO CONCUR
	HB 476 DO PASS AS AMENDED (TABLED AFTER THE MEETING DUE TO CHANGE IN PROXY VOTE. SEE NOTES UNDER EXECUTIVE ACTION FOR THIS BILL.)
	HB 399 POSTPONED
	HB 423 POSTPONED

{Tape: 1; Side: A.}

HEARING ON 494Opening Statement by Sponsor:

**REP. BOB CLARK, HD 8**, submitted **EXHIBITS 1 and 2**. He stated in a 60 year history there have been four members to die in the line of duty. This bill is to establish a memorial for these people. It will be paid for by private donations and will be made to honor the four officers who have died. They will sell the bricks for \$5 apiece. There will be 500 available for purchase. The flower beds will be paid for by the Montana Highway Patrol Association. He reserved the right to close.

Proponents' Testimony:

**Craig Reap, Montana Highway Patrol**, stated the Highway Patrol is rich in history and tradition. Their work now is more technical and more dangerous. He felt they needed recognition for the work that they do. This would enhance the grounds. He felt this was a very appropriate bill and the people who gave their life in the line of duty deserved recognition.

**Leo Giacometto, Governor's Office**, stated this bill is only right and the Governor's Office was in full support of the bill.

**Arnie Olson, Administrator, Department of Fish, Wildlife and Parks**, stated there had been some concern with the long-term maintenance and design of the proposal. He stated this bill would be worth the rethinking to take care of those concerns.

**Tom Schneider, MPEA**, stated this is a proper project that they are obligated to care for. He recommended a do pass.

**Chris Emhoff, League of Women Voters**, stated one of her greatest wishes was to have a monument of this type. She stated this was a good bill and hoped the committee would give it their favorable consideration.

Opponents' Testimony:

none

Informational Testimony:

none

Questions From Committee Members and Responses:

**REP. HEAVY RUNNER** asked if the concerns were with saturation in the plan and idea of this proposal.

**Mr. Olson** stated it is a concern for the long-term. He stated the maintenance and design need to have the approval of the legislature.

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**REP. REHBEIN** asked what the maintenance would cost a year.

**Mr. Olson** stated he was unsure about the cost, but flower distribution would cost around \$5,000 a year.

**REP. MASOLO** asked if they should write in the flowers to the bill.

**REP. CLARK** stated that could be put in, but the Highway Patrol would handle the flowers.

**REP. HEAVY RUNNER** asked if they were sure where the location would be.

**REP. CLARK** stated he thought this would enhance the grounds to have three monuments in a row.

**CHAIRMAN SIMPKINS** asked if it would be okay for them to give the bill more latitude in order to get these things in place.

**Mr. Olson** stated he would like to see a lot more latitude.

**CHAIRMAN SIMPKINS** asked if he would still have objections.

**Mr. Olson** stated he would if things didn't work out.

**CHAIRMAN SIMPKINS** asked if it would be necessary for them to add a section to the bill saying that they must meet the historical integrity.

**Mr. Olson** stated it would be helpful for them to say they would maintain the historical integrity of the capitol.

Closing by Sponsor:

**REP. CLARK** closed.

HEARING ON HB 362

Opening Statement by Sponsor:

**REP. ROSE FORBES** stated this bill was introduced on the behalf of taxpayers. The money paid by taxpayers is too often spent for political purposes. She stated she was unsure if this would solve all the problems. There were amendments to the bill that she introduced. **EXHIBIT 3**

Proponents' Testimony:

**Susan Good** made reference to CI-67. Income in that campaign was reported, but she believed that there was a great deal more that was not reported. She submitted **EXHIBIT 4**.

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**REP. LARRY GRINDE** stated public employees would also be asked to do this. It would solve a lot of problems and make the system better.

**REP. MATT DENNY, HD 63** stated this would help to restore faith in government. There have been many concerns expressed about this and this bill would help to alleviate some of those concerns. He submitted a letter and accompanying materials from **Rod Hein, Select Realty, Billings.** **EXHIBIT 5**

**Richard Motta, Missoula,** stated there is nothing done if these people violate the law. They should be going to jail. This bill is trying to get those people who do not currently comply with the law to do so. He stated they should also look at the time it takes for them to do these things. They should be done in a timely manner. This bill helps to do that. He asked the committee to give the bill their favorable recommendation.

**EXHIBIT 6**

**CHAIR TO VICE CHAIRMAN DORE SCHWINDEN.**

**Elana Ingraham, Missoula,** stated she had an incident with her daughter. Her daughter was outspoken and told people there was too much emphasis put on sports. After she appeared on a radio talk show to voice her concerns she was harassed by students, teachers, and friends. There was one teacher that did her best to discredit her daughter. She submitted a letter from her daughter. **EXHIBIT 7**

**Opponents' Testimony:**

**Nancy Curtis, Teacher, Big Sky High School, Missoula,** submitted written testimony. **EXHIBIT 8**

**Informational Testimony:**

none

**Questions From Committee Members and Responses:**

**REP. HEAVY RUNNER** asked if there was any consideration on public funds.

**REP. FORBES** stated they consider anything that would help to put a stop to the abuses that are going on now.

**REP. HEAVY RUNNER** asked if students are coerced into voting.

**REP. FORBES** stated students are influenced into taking the message back to their parents. They don't think those comments take place and don't think they are on a campaign mission.

**REP. SQUIRES** asked if they had heard of MET-NET.

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REP. FORBES stated someone else used that to lobby.

REP. SQUIRES stated she thought that it was a television program.

REP. DENNY stated they were referring to the bulletin board which is also called MET-NET.

REP. SCHWINDEN stated he agreed with the intent of the bill. He asked if they wanted this to be a bipartisan bill, why they didn't ask a democrat to sign onto the bill.

REP. FORBES stated they did ask for democrats to sign onto the bill. The bill was last minute and was passed around for signatures.

REP. DENNY asked if they would be willing to allow additional sponsors to the bill.

REP. FORBES stated she would like additional sponsors for the bill.

Closing by Sponsor:

REP. FORBES stated they did have an amendment for the bill. They don't have to use funds and time of the taxpayers. She urged the committee's support of the bill.

EXECUTIVE ACTION ON HB 362

Motion: REP. BRAINARD MOVED THAT HB 362 DO PASS. REP. DENNY MOVED THE AMENDMENT.

Discussion:

Sheri Heffelfinger, Legislative Council, gave a summary of the bill and explained what the amendments would do to the bill.

REP. HEAVY RUNNER asked if they were using their letterhead and their envelopes, if they would have to put it on there.

REP. DENNY stated they would only have to put that information on the letterhead and envelopes if they were trying to influence the outcome of an election.

Ms. Heffelfinger stated any public statement by public officials would have to have this included. This would include legislators.

REP. DENNY thought that legislators should have disclosure for this.

REP. BRAINARD asked if the first 250 would be done by the state.

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REP. SQUIRES asked if they would have to do this if they were writing a letter to their constituents about sales tax.

REP. DENNY stated if it were a ballot issue and public funds were to be used, they would have to use disclosure. If individuals were paying for it out of their own pocket, they wouldn't have to do this.

REP. SQUIRES asked what would happen if they weren't actually on the ballot.

REP. DENNY stated that wouldn't be covered under this bill.

REP. SQUIRES asked what would happen if an employer wanted to put something up in their window to sway the election.

REP. DENNY stated they wouldn't be able to put anything in their employees' pay packets or threaten their employment.

Motion/Vote: REP. DENNY WITHDREW HIS MOTION ON THE SECOND AMENDMENT. Motion carried unanimously.

Motion/Vote: REP. MASOLO MOVED THAT HB 362 DO PASS AS AMENDED. Motion carried 14-4 with REP. SCHWINDEN, REP. GALVIN, REP. HEAVY RUNNER, and REP. KITZENBERG voting no.

EXECUTIVE ACTION ON HB 494

Motion: REP. GALVIN MOVED THAT HB 494 DO PASS. REP. BRAINARD MOVED THE AMENDMENT.

Discussion:

REP. TAYLOR asked where this would come from.

CHAIRMAN SIMPKINS stated it would come from a group.

REP. HEAVY RUNNER stated they needed to consider policy.

Vote: Motion carried 16-2 with REP. REHBEIN and REP. SMITH voting no.

Motion/Vote: REP. BRAINARD MOVED THAT HB 494 DO PASS AS AMENDED. Motion carried 16-2 with REP. REHBEIN and REP. SMITH voting no.

EXECUTIVE ACTION ON SB 37

Motion: REP. TAYLOR MOVED THAT SB 37 BE CONCURRED IN. REP. SCHWINDEN MOVED THE FIRST AMENDMENT. EXHIBIT 9

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Discussion:

**Ms. Heffelfinger** reminded the committee that this bill would eliminate the office of Lieutenant Governor and move all of that office's functions to the Secretary of State.

**REP. SCHWINDEN** stated this makes good sense.

**REP. DENNY** stated he was against the amendment.

Vote: Motion failed 6-12 with **REP. SCHWINDEN**, **REP. GALVIN**, **REP. HAGENER**, **REP. HEAVY RUNNER**, **REP. SQUIRES** (by proxy), and **REP. TROPILA** voting yes.

Motion: **REP. STOVALL** MOVED THE SECOND AMENDMENT. EXHIBIT 10

Discussion:

**REP. GALVIN** asked what would happen to the duties.

**CHAIRMAN SIMPKINS** stated the duties would reside with the Secretary of State.

**REP. STOVALL** stated with this amendment it would turn the election duties from the Secretary of State's Office over the office of the Commissioner of Political Practices.

Vote: Motion failed 8-10 with **REP. SIMPKINS**, **REP. SCHWINDEN**, **REP. GALVIN**, **REP. HAGENER**, **REP. HEAVY RUNNER**, **REP. KITZENBERG**, **REP. SQUIRES** (BY PROXY), AND **REP. TROPILA** voting yes.

Vote: Motion carried 12-6 with **REP. SCHWINDEN**, **REP. GALVIN**, **REP. HAGENER**, **REP. HEAVY RUNNER**, **REP. KITZENBERG**, AND **REP. SQUIRES** (by proxy) voting no.

EXECUTIVE ACTION ON HB 376

Motion: **REP. BRAINARD** MOVED THAT HB 376 DO PASS. **REP. STOVALL** MOVED THE AMENDMENT. EXHIBIT 11

Discussion: **CHAIRMAN SIMPKINS** stated there had been some objection on the part of the tribes. They have since been sent a copy of the down their proposed bill and they have been sent a compromised proposal for the tribes. His original intent was not to indicate that the Native American language was foreign or that it had any privileges over any other language in Montana. He didn't want people to think that they couldn't speak any other languages in the state of Montana.

**REP. STOVALL** stated the tribes wanted some leverage with this bill. They were concerned that they couldn't keep their languages on their reservations. He stated he thought that the amendments would satisfy the tribes.

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**REP. TAYLOR** stated that she had spoken to some people who were against the whole bill. What those people wanted was to strike the last two lines of the bill. She said this bill was saying that they would use the English language as a common ground. She didn't agree with the people who were saying that this was going to make the whole state of Montana speak nothing more than English. She stated she signed on to the bill and she was going to vote for it because she thought it was a good idea.

**REP. HEAVY RUNNER** thought there was a lack of understanding as to why the tribes objected to this bill. He stated he would reserve any further comments for the floor debate if the bill were to pass.

**Vote:** Motion to adopt the amendment carried unanimously.

**Motion:** REP. BRAINARD MOVED THAT HB 376 DO PASS AS AMENDED. REP. SCHWINDEN MOVED TO TABLE THE BILL.

**Vote:** Motion to table failed 7-11 with REP. SCHWINDEN, REP. GALVIN, REP. HAGENER, REP. HEAVY RUNNER, REP. KITZENBERG, REP. SQUIRES (by proxy), AND REP. TROPILA voting yes.

**Vote:** Motion to pass the bill carried 11-7 with REP. SCHWINDEN, REP. GALVIN, REP. HAGENER, REP. HEAVY RUNNER, REP. KITZENBERG, REP. SQUIRES (by proxy), and REP. TROPILA voting no.

EXECUTIVE ACTION ON HB 476

**Motion:** REP. STOVALL MOVED THAT HB 476 DO PASS.

**Discussion:** Ms. Heffelfinger explained the clause amendment. She stated it was a savings clause. It says that this bill will not affect negotiations that are currently underway when the bill becomes effective.

**Motion/Vote:** REP. STOVALL MOVED THE AMENDMENT. Motion carried unanimously with REP. SQUIRES voting yes by proxy.

**Motion/Vote:** REP. TROPILA MOVED TO AMEND THE BILL BY DELETING THE WORD "ADEQUATELY" ON LINE 19, PAGE 1. Motion carried 17-1 with REP. HEAVY RUNNER voting no and REP. SQUIRES voting yes by proxy.

**Motion/Vote:** REP. STOVALL MOVED THAT HB 476 DO PASS AS AMENDED. Motion carried 9-9 with REPS. DENNY, SCHWINDEN, GALVIN, HAYNE, HEAVY RUNNER, KITZENBERG, MASOLO, AND SMITH voting no and REP. SQUIRES voting no by proxy.

**Note:** REP. SQUIRES requested after the meeting that her proxy vote on the do pass as amended motion be changed to "no," resulting in a do not pass or effective tabling of the bill. No motion to table was made because the proxy vote was recorded as a

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"yes" at the meeting. Reconsideration of this bill took place at the following meeting on February 15, 1995, where it was passed as amended.

Written testimony on HB 476, from **Susan Dunbar Bjerke, AIA, Helena**, was received and considered by the committee. **EXHIBIT 12**

EXECUTIVE ACTION ON HB 399

Motion: REP. SCHWINDEN MOVED THAT HB 399 DO PASS.

Discussion: Ms. Heffelfinger explained the amendments for the committee. She stated the amendments would define the expenditures that are subject to voluntary limitations.  
**EXHIBIT 13**

Motion/Vote: REP. BRAINARD MOVED THE AMENDMENTS. REP. TROPILA MOVED THAT ACTION BE POSTPONED ON THE BILL UNTIL A LATER DATE. CHAIRMAN SIMPKINS granted REP. TROPILA's motion.

EXECUTIVE ACTION ON HB 423

Motion: REP. SCHWINDEN MOVED THAT HB 423 DO PASS.

Discussion: Ms. Heffelfinger walked the committee through the amendments. **EXHIBIT 14**

CHAIRMAN SIMPKINS explained why he requested these amendments.

Motion: REP. SCHWINDEN MOVED THE AMENDMENT.

Substitute Motion/Vote: A MOTION WAS MADE TO POSTPONE ACTION FOR ONE DAY UNTIL THE BILL'S SPONSOR HAD LOOKED AT THE AMENDMENTS. The motion carried.

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ADJOURNMENT

Adjournment: 11:30 a.m.

Richard Simpkins  
RICHARD SIMPKINS, Chairman

Christen D. Vincent  
CHRISTEN VINCENT, Secretary

RS/cdv

# HOUSE OF REPRESENTATIVES

## State Administration

ROLL CALL

DATE 2-14-95

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	✓		



## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

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Mr. Speaker: We, the committee on State Administration report that House Bill 362 (first reading copy -- white) do pass as amended.

Signed:

*Dick Simpkins*  
Dick Simpkins, Chair

And, that such amendments read:

1. Page 1, line 7.

Following: "ISSUE;"

Insert: "REQUIRING DISCLOSURE OF COSTS FOR ISSUING PUBLIC STATEMENTS;"

2. Page 2, line 6.

Following: "issuing"

Insert: "public"

3. Page 2, line 7.

Following: "office."

Insert: "However, a document that is published pursuant to this subsection (3) (b) and that is aimed at supporting or opposing a political committee, a candidate, or a ballot issue must include a written statement disclosing the costs incurred to produce the document. The statement must meet the specifications described in 18-7-306, and the costs must be estimated based on the factors listed in 18-7-307. Documentation of the cost of publication must be filed with the commissioner of political practices."

-END-

Committee Vote:

Yes 14, No 4.

381311SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

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Mr. Speaker: We, the committee on State Administration report that House Bill 494 (first reading copy -- white) do pass as amended.

Signed: Dick Simpkins  
Dick Simpkins, Chair

And, that such amendments read:

1. Page 1, lines 21 and 22.

Strike: "of" on line 21 through "site" on line 22

Insert: "on the north side of the capitol"

2. Page 1, line 23.

Following: "officers."

Insert: "The area must be agreed upon between the Montana highway patrol and the department of fish, wildlife, and parks and must maintain the historical design integrity of the block on which capitol is located, also known as capitol square."

3. Page 1, line 24.

Following: "constructed"

Insert: "to consider long-term maintenance efficiency"

Following: "and"

Insert: "must be"

Following: "donations"

Insert: ":"

Strike: "but"

Insert: "The memorial"

Following: "maintained"

Insert: "with the assistance of private donations"

4. Page 1, line 25.

Strike: "as provided in 2-17-111"

Following: "grounds"

Committee Vote:

Yes 16, No 2.

381423SC.Hbk

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Insert: "maintenance program provided in 2-17-111"

-END-

381423SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

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Mr. Speaker: We, the committee on State Administration report that Senate Bill 37 (third reading copy -- blue) be concurred in.

Signed:

*Dick Simpkins*  
Dick Simpkins, Chair

Carried by: Rep. Forbes

Committee Vote:

Yes 12, No 6.

381310SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

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Mr. Speaker: We, the committee on State Administration report that House Bill 376 (first reading copy -- white) do pass as amended.

Signed: Dick Simpkins  
Dick Simpkins, Chair

And, that such amendments read:

1. Page 1, line 22.

Strike: "Native American languages or"

2. Page 1, line 24.

Following: line 23

Insert: "(4) This section is not intended to limit the use of any other language by a tribal government. A school district and a tribe, by mutual agreement, may provide for the instruction of students that recognizes the cultural identity of Native American children and promotes the use of a common language for communication."

-END-

Committee Vote:

Yes 11, No 7.

381312SC.Hbk

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 476

MOTION: Rep. Stovall moved the amendment

choose amend

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	By Proxy	—
Rep. Lila Taylor	—	
Rep. Joe Tropila	—	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 470

MOTION: Rep. Tropila moved to amend  
the Bill

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	✓	

## HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

## State Administration

DATE 2-14-95 BILL NO. HB NUMBER 476MOTION: Rep. Stovall moved To Pass  
as amended

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority		✓
Rep. Dore Schwinden, Vice Chairman, 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	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 376

MOTION: Rep. Brainard moved Do pass as amend

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	<u>By Proxy</u>	
Rep. Lila Taylor	✓	
Rep. Joe Tropila		✓

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 376

MOTION: Rep. Stovall moved the amendment

hb037602.agp

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 376

MOTION: Sub. motion to table by Rep. Schwinden

NAME	AYE	NO
Rep. Dick Simpkin, Chairman		✓
Rep. Matt Denny, Vice Chairman, Majority		✓
Rep. Dore Schwinden, Vice Chairman, 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	By Proxy	✓
Rep. Lila Taylor		✓
Rep. Joe Tropila	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. SB NUMBER 37

MOTION: Rep. Taylor moved Do Concurred

*L.P. Forbes*

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	<i>By Proxy</i>	
Rep. Lila Taylor	✓	
Rep. Joe Tropila	✓	

## HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

## State Administration

DATE 2-14-95 BILL NO. SB NUMBER 37MOTION: Rep. Stovall moved the amendmentSB 003702ASH

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority		✓
Rep. Dore Schwinden, Vice Chairman, 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	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. SB NUMBER 37

MOTION: Rep. Schwinden moved the amendment

SB 003701.ash

NAME	AYE	NO
Rep. Dick Simpkin, Chairman		✓
Rep. Matt Denny, Vice Chairman, Majority		✓
Rep. Dore Schwinden, Vice Chairman, 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	By Proxy	✓
Rep. Lila Taylor		✓
Rep. Joe Tropila	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 362

MOTION: Rep. Masolo made the motion do pass as amended

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-96 BILL NO. HB NUMBER 362

MOTION: Rep. Denny moved the amendment

hb036201.ash

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 494

MOTION: Rep. Brainard made the motion Do Pass as amended

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	✓	

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### State Administration

DATE 2-14-95 BILL NO. HB NUMBER 494

MOTION: Rep. Brainard moved the amendment

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, 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	✓	

Christen.

Rep. Squires needs to  
have her proxy vote on  
HB 476 changed to NO

Keep Yes on amendment  
but change to NO on Do Pass  
~~both~~ as amended.

Thanks -

- Shen

HB0494D1.ash

447-  
6015

EXHIBIT 1

DATE 2/14/95

HB 494

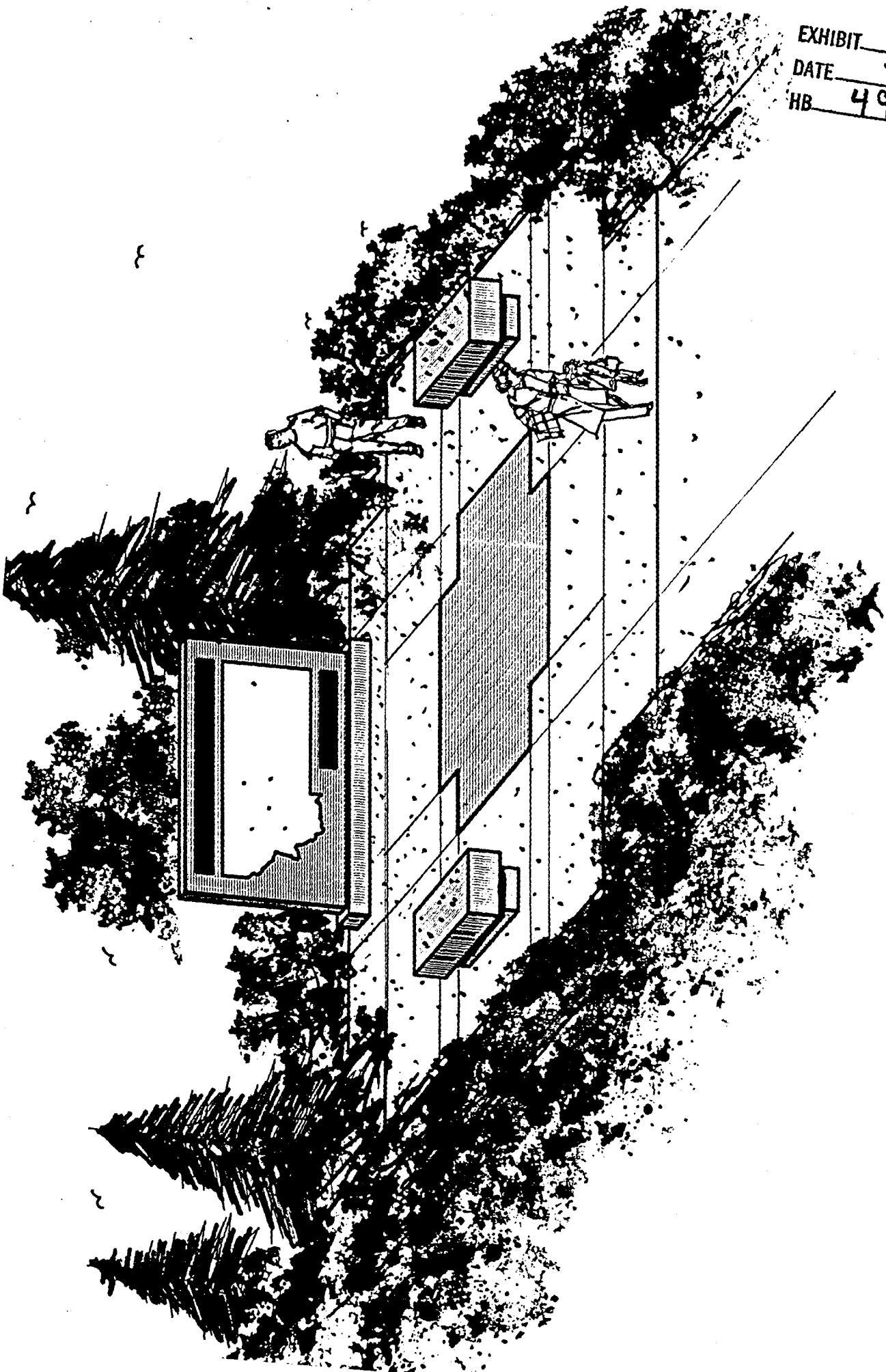
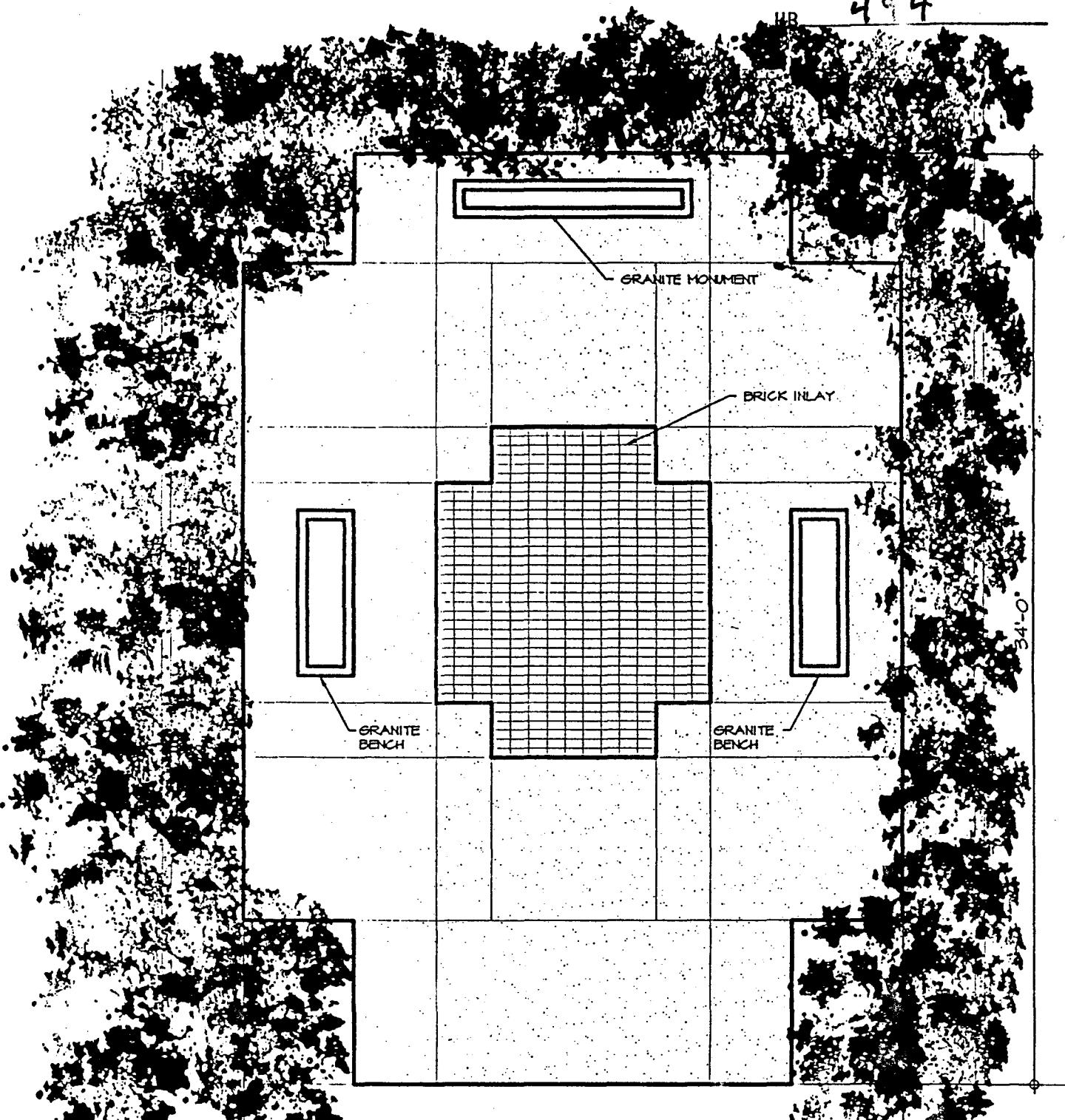


EXHIBIT 2  
DATE 3/14/95  
HR 494



PROPOSED MONTANA HIGHWAY  
PATROL MEMORIAL

EXHIBIT 3  
DATE 2/14/95  
HB 362

Amendments to House Bill No. 362  
First Reading Copy

Requested by Rep. Forbes  
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
February 13, 1995

1. Page 1, line 7.

Following: "ISSUE;"

Insert: "REQUIRING DISCLOSURE OF COSTS FOR ISSUING PUBLIC STATEMENTS;"

2. Page 2, line 6.

Following: "issuing"

Insert: "public"

3. Page 2, line 7.

Following: "office."

Insert: "However, a document published pursuant to this subsection (3)(b) must include a written statement disclosing the costs incurred to produce the document. The statement must meet the specifications described in 18-7-306, and the costs must be estimated based on the factors listed in 18-7-307. Documentation of the cost of publication must be filed with the commissioner of political practices."

EXHIBIT

4

DATE

2/14/95

HB

362

## TESTIMONY BEFORE THE HOUSE STATE ADMINISTRATION COMMITTEE IN SUPPORT OF HOUSE BILL 362

Mr. Chairman and members of the committee. Good morning. My name is \_\_\_\_\_, and I appear in support of HB 362 on behalf of the Montana Shooting Sports Association, Gun Owners of America, Citizens Committee for the Right to Keep and Bear Arms, the Western Montana Fish and Game Association, and the Big Sky Practical Shooting Club. Gary Marbut, president of the Montana Shooting Sports Association wanted to be here for this bill, but he couldn't. He asked me to represent him and these organizations.

Montana law declares that a public employee may not solicit votes for or against a candidate or ballot issue while on the job or at their place of work. Unfortunately, Montana law is silent about whether or not public employees may commandeer and utilize public resources for the same purpose. Although it makes sense that such activity is totally inappropriate, common occurrence of misuse of public resources to influence elections continues to be a problem in Montana.

In the weeks before the election on CI-27 (to repeal the property tax), I filed suit in district court as a pro se litigant, asking for a court order preventing public employees use of public funds to campaign against CI-27. The court order was granted immediately. The problem was that nearly every school district in the state had printed hundreds or thousands of flyers, at public expense, and sent them home with schoolchildren. These flyers invariably claimed some form of end-of-life-on-earth-as-we-know-it if CI-27 were to pass. Some claimed that literally.

At the time, we estimated that over \$100,000 of public funds had improperly been used by public employees to oppose CI-27. We asked

county attorneys and the Commissioner of Political Practices to bring actions to stop this misuse of public funds. They refused.

After election day, I filed an amendment to the suit asking the court to void the election on CI-27 because of errors in process. I was in court as a pro se litigant for 18 months over this issue. I learned a lot about this topic in the process. The result was that the court voided the previous election on CI-27 because of flaws in process.

You may wonder why organizations of gun owners are concerned about this issue. Like others, gun owners rely on fair elections, and the forms of direct democracy reserved to us in the Montana Constitution. About four years ago, the Montana Shooting Sports Association attempted to use the initiative process to place a measure on the ballot that, if the people voted for it, would have placed the right to hunt game animals into the Montana Constitution. That was CI-62. For reasons too complex to address here, the Montana Department of Fish, Wildlife and Parks took position in opposition to this effort.

To effect their opposition, FWP flew its staff and FWP commissioners all around the state in its public aircraft, to hold public meetings where the FWP representatives present urged people present that CI-62 was a bad idea. We estimate that FWP consumed over \$50,000 of public resources in this effort. The result was that they so severely undercut our ability to gather signatures that we were unable to collect sufficient signatures to get CI-62 on the ballot.

By any standard, such use of public funds is wrong. Every court that has considered this issue has ruled the use of public funds to influence elections is wrong. Perhaps the landmark case was *Citizens To Protect Public Funds*, decided by the New Jersey Supreme Court. In that decision, Chief Justice Brennan articulated the "equal stake doctrine". He asserted that both the proponents and opponents of a candidate or

ballot issue have an equal stake in any public funds used to advertise the issue. Therefore, any such use of public funds must be neutral, or balanced, or both.

Other courts have ruled that use of public resources to take sides in an election is a use of public funds definitely not authorized by law. That is, when legislative bodies, whether the school board or the Legislature, authorize an agency to use public funds, that authorization does not extend to taking sides in elections.

A summary of relevant and prevailing case law is attached for your consideration.

Some opponents may argue that HB 362 infringes on their First Amendment rights of freedom of expression. This argument is pure bunk. No one has a constitutional right to dip their hand into the public purse to fund their private political opinions. They may shout their political opinions from the street corner, on their own time, but they may not steal my taxes to do so.

The inappropriate use of public funds to influence election continues to be a serious problem of public policy in Montana. It may be one last vestiges of the total control of Montana by the Copper Kings, an era when the Copper Kings controlled Montana government and practice was common. Because of this heritage, Montana law is about whether this practice is legal or illegal. HB 362 would fill void. HB 362 would establish common sense and implement previous case law on this subject. We urge you to support HB 362.

End

HB A

MONTANA SHOOTING SPORTS ASSOCIATION  
P.O. BOX 4924, MISSOULA, MONTANA 59806  
406-549-1252

I. MOUNTAIN STATES LEGAL, ETC. v. DENVER SCHOOL DIST. (459 F.Supp. 357 (1978))

MOUNTAIN STATES LEGAL, ETC. v. DENVER SCHOOL DIST., HEARD IN THE UNITED STATES DISTRICT COURT, AT DENVER COLORADO, AND DECIDED ON OCTOBER 28, 1978. IN THAT ACTION,

"Plaintiffs sought preliminary injunction prohibiting school district from implementing resolution authorizing expenditure of funds to defeat proposed constitutional amendment. The District Court, Matsch, J., held .... that resolution was an illegal act and was contrary to state law and the United States Constitution and in view of the irreparable injury which would result from refusal to restrain implementation of resolution, issuance of preliminary injunction was appropriate." (from Headnotes)

IN THIS DECISION, AS A MATTER OF CONSTITUTIONAL LAW:

"Use of power or publicly owned resources to propagandize against proposal made and supported by significant number of those who were taxed to pay for such resources is an abridgement of fundamental freedoms of speech and right of people to petition government for redress of grievances. U.S.C.A. Const. Amends. 1, 14." (from Headnotes)

IN THIS MEMORANDUM OPINION AND ORDER, DISTRICT JUDGE MATSCH DESCRIBED THE SITUATION SURROUNDING THIS ISSUE AS FOLLOWS, IN PART,

"The official ballot ... State of Colorado ... general election ...

## LEGAL ISSUES SURROUNDING USE OF PUBLIC RESOURCES TO AFFECT BALLOT ISSUES

IN REASONING ABOUT THE ISSUES INVOLVED, THE COURT SAID, "The members of a board of education of a school district are to serve in the role prescribed by the people, indirectly through the general assembly or directly through the initiative and referendum. The dimensions of the governmental power granted to a school district is a matter of concern of the people as grantors, not the board as grantee.

"If it is assumed that the board of education has the power to spend public funds and use public facilities for the purpose of informing the electorate about this issue, there is strong precedent for requiring fairness and neutrality in that effort.

"The differences between using public resources for the fair presentation of relevant facts and the promotion of a particular point of view was clearly defined in the Supreme court of California in *Stanion v. Mott*, 17 Cal.3d 206, 130 Cal.Rptr. 697, 551 P.2d 1 (Cal.1976). There a bond issue for public parks was being supported by the State Parks Department. Writing for the Court, Justice Tobriner said at pages 704 and 705 of 130 Cal.Rptr., at pages 8 and 9, of 551 P.2d:

"Indeed, every court which has addressed the issue to date has found the use of public funds for partisan campaign purposes improper, either on the ground that such use was not explicitly authorized (see *Porter v. Tiffany* (1972) 11 Or. App. 542, 502 P.2d 1385, 1387-1389; *Eisenau v. City of Chicago* (1929) 334 Ill. 78, 165 N.E. 129, 130-131; *State v. Superior Court* (1917) 93 Wash. 267, 160 P. 755, 756) or on the broader ground that such expenditures are never appropriated. (See *Stern v. Kramarsky* (Sup.Ct.1975) 84 Misc.2d 447, 375 N.Y.S.2d 235, 239-40). ... (Emphasis added)

As uniform judicial reluctance to sanction the use of public funds for election campaigns rests and implicit in such expenditures raise potentially serious questions. A fundamental precept of this nation's electoral process is that the government may not discriminate in election contests or bestow an unfair advantage on competing factions."

As a result, the California Supreme court cited, *Citizens to Protect Public Funds v. Board of Education of N.J.* 172, 98 A.2d 673 (1953). In that case, (United States Supreme Court Justice) Brennan, New Jersey Supreme Court, determined that a state had an implied power to make reasonable regulations for the purpose of giving voters relevant information about a school bond issue, but said:

*Opposes*

*My Proxy to Joe Traglia  
all Amendments & Solls  
Aug - 2/14/95*

"The public funds entrusted to the board belong equally to the proponents and opponents of the proposition, and the use of funds to finance not the presentation of facts merely but also arguments to persuade voters that only one side has merit, gives the dissenters just cause for complaint. The expenditure is then not within the implied power and is not lawful in the absence of express authority from the Legislature. 98 A.2d 677"

"An interpretation of pertinent language of the Campaign Reform Act as a grant of express authority for a partisan use of public funds in an election of this type would violate the First Amendment to the United States Constitution, made applicable to the states by the due process clause of the Fourteenth Amendment. It is the duty of this Court to protect the political freedom of the people of Colorado. The freedom of speech and the right of the people to petition the government for a redress of grievances are fundamental components of guaranteed liberty in the United States. First National Bank of Boston v. Belotti, 435 U.S. 765, 98 S.Ct. 1407, 55 L.Ed.2d 707 (1978).

"[2] The use of publicly owned resources to propagandize against a proposal made and supported by a significant number of those who were taxed to pay for such resources is an abridgement of those fundamental freedoms. Specifically, where the proposal in question - placed before the voters in the exercise of the initiative power - seeks fundamentally to alter the authority of representative government, opposition to the proposal which is financed by publicly collected funds has the effect of shifting the ultimate source of power away from the people. (Emphasis added). Do not the people themselves, as the grantors of the power of government have the right to freely petition for what they believe is an improvement in the exercise of that power? Publicly financed opposition to the exercise of that right contravenes the meaning of both the First Amendment to the United States Constitution and Article V, Section 1 of the Constitution of Colorado."

THE COURT HERE CITES JAMES MADISON, WRITING IN THE FEDERALIST PAPERS, AND CONTINUES BY SAYING, "When residents within a state seek to participate in this process by proposing an amendment to the state constitution the expenditure of public funds in opposition to that effort violates a basic precept of this nation's democratic process. Indeed, it would seem so contrary to the root philosophy of a republican form of government as might cause this Court to resort to the guaranty clause in Article IV, Section 4 of the United States Constitution." (Emphasis added). (Kohler v. Tugwell, 292 F.Supp. 978 (E.D.La.1968) (concurring opinion of Judge Wisdom), aff'd, 393 U.S. 531, 89 S.Ct. 879, 21 L.Ed.2d 755 (1969).

THE COURT THEN CONCLUDES BY SAYING, "[3] The irreparable injury which would result from a refusal to restrain

implementation of Resolution Number 2046 is apparent. The election is to be held in a few days and the right of the electorate to a free discussion of the reasons why the electors should approve or disapprove of this proposed constitutional amendment without the partisan participation by the school board is a right which would be irretrievably lost without intervention of this Court. There can be no adequate legal remedy to compensate for such a loss. The issuance of a preliminary injunction is necessary for the protection of the public interest."

"While Rule 65(b) of the Federal Rules of Civil Procedure requires the giving of security, the nominal sum of \$10.00 which was ordered in the temporary restraining order is adequate for that purpose here where no monetary loss is at risk."

"Upon the foregoing, it is: ORDERED that pending the final hearing and determination of this civil action, the defendant Denver School District No. 1 and all of the members of its Board of Education, together with all of the agents, employees and all other persons acting in concert or cooperation with or under the control of the school district and its board of education are enjoined from implementing or in any acting upon or carrying out Resolution Number 2046, and it is  
"FURTHER ORDER that bond shall be posted in the amount of \$10.00."

## II. CITIZENS TO PROTECT PUB. FUNDS v. BOARD OF EDUCATION (98 A.2d 673)

CITIZENS TO PROTECT PUBLIC FUNDS et al. v. BOARD OF PUBLIC EDUCATION OF PARSIFFANY - TROY HILLS T.P., REPORTED AT 13 N.J. 172, HEARD BY THE SUPREME COURT OF NEW JERSEY, AND DECIDED ON JUNE 25, 1953, WITH AN OPINION DELIVERED BY NEW JERSEY SUPREME COURT JUSTICE (SINCE U.S. SUPREME COURT JUSTICE) WILLIAM J. BRENNEN, JR.J. IN THIS DECISION, JUSTICE BRENNEN SETS OUT SOME GUIDELINES FOR CONSIDERATION OF WHAT EXPENDITURES OF PUBLIC FUNDS FOR POLITICAL ADVOCACY ARE AND ARE NOT APPROPRIATE. ONE OF THE FINDINGS OF THIS ACTION WAS:

"Where booklet which was prepared and paid for by township board of education for purpose of giving voters relevant facts to aid them in reaching an informed judgment when voting on school bond election program contained several 'vote yes' exhortations and an over-dramatized portrayal of dire consequences of failure to do so, expenditure by board was unlawful as beyond implied power of board. R.S. 18:7-77.1, N.J.S.A." (from Headnotes)

IN DESCRIBING THE CIRCUMSTANCES SURROUNDING THE ISSUE, JUSTICE BRENNEN QUOTES THE

PAMPHLET PREPARED AND PUBLISHED BY THE BOARD OF EDUCATION. THAT PAMPHLET PREDICTED CERTAIN "DIRE CONSEQUENCES" IF A BOND ISSUE SUPPORTED BY THE BOARD OF EDUCATION FAILED TO PASS. THE CITED CLAIMS OF "DIRE CONSEQUENCES" WERE APPARENTLY A SERIOUS BREACH TO JUSTICE BRENNEN. JUSTICE BRENNEN DISCUSSES THIS CONCLUSION IN [4] WHEN THE COMMENTS,

"But a fair presentation of the facts will necessarily include all consequences, good and bad, of the proposal, not only the anticipated improvement in educational opportunities, but also the tax increase rate and such other less desirable consequences as may be foreseen."

JUSTICE BRENNEN COMMENTS FURTHER IN [5] BY SAYING, "But the defendant board was not content to simply present the facts. The exhortation "Vote Yes" is repeated on three pages, and the dire consequences of the failure to do so are over-dramatized on the page reproduced above. In that manner the board made use of public funds to advocate one side only of the controversial question without affording the dissenters the opportunity by means of that financed medium to present their side, and thus imperilled the propriety of the entire expenditure. (Justice Brennen continues, as quoted in MOUNTAIN STATES v. DENVER, above) "The public funds entrusted to the board belong equally to the proponents and opponents of the proposition, and the use of funds to finance not the presentation of facts merely but also arguments to persuade voters that only one side has merit, gives the dissenters just cause for complaint. The expenditure is then not within the implied power and is not lawful in the absence of express authority from the Legislature."

JUSTICE BRENNEN THEN CITES ELSENNAU v. CITY OF CHICAGO, 334 Ill. 78, 165 N.E. 129, 131 (Ill.Sup.Ct.1929), where appears the following: "The conduct of a campaign before an election, for the purpose of exerting an influence upon the voters, is not the exercise of an authorized municipal function and hence is not a corporate purpose of the municipality."

LATER, JUSTICE BRENNEN STATES, "It is the expenditure of public funds in support of one side only in a manner which gives the dissenters no opportunity to present their side which is outside the pale." (Emphasis added).

### III. STANSON v. MOTT (551 P.2d 1)

ANOTHER BEARING DECISION IS STANSON v. MOTT, AS DECIDED BY THE SUPREME COURT OF CALIFORNIA, AS MODIFIED ON JULY 22, 1976. IN THIS ISSUE, "Action was brought alleging that director of state Department of Parks and Recreation had authorized the

Department to expend public funds to promote passage of park bond issue bond issue, and seeking, on ground of illegality of such use of public funds, to require director to personally repay the funds to the state treasury, and any other appropriate relief." (from Headnotes) THE SUPERIOR COURT SUSTAINED A DEMURRER WITHOUT LEAVE TO AMEND, AND ENTERED JUDGEMENT IN FAVOR OF THE DEFENDANT, AND THE PLAINTIFF APPEALED. SIGNIFICANT ISSUES EXPLORED AND DECIDED IN THIS ACTION INCLUDE:

CONCERNING ACTION, "A plaintiff is not required to join separate causes of action arising out of the same action.", CONCERNING JUDGEMENT "Plaintiff was not collaterally estopped from maintaining action against director of state Department of Parks and Recreation, challenging allegedly promotional expenditures in support of bond issue election and seeking to hold director personally liable to repay such funds to the state treasury, though in prior action attacking the legality of the bond election itself plaintiff had alleged, *inter alia*, improper campaign expenditure by the park director and Court of Appeal in affirming judgement entered on sustaining of demurrer had indicated that director's alleged promotional expenditures were in fact proper, where the latter portion of the opinion was purely *dicta* and completely irrelevant to the decision.", AND CONCERNING CONSTITUTIONAL LAW, "Once a public forum is opened, equal access must be provided to all competing factions U.S.C.A Const.Amend.1." (from Headnotes)

IN THIS DECISION OF THE SUPREME COURT OF CALIFORNIA, JUSTICE TOBRINGER DELIVERED THE OPINION, AND SAID, "Although the department did possess statutory authority to disseminate "information" to the public relating to the bond election, the department, in fulfilling this informational role, was obligated to provide a fair presentation of the relevant facts. Since plaintiff specifically alleged that public funds were expended for "promotional", rather than (sic) "informational", purposes, his complaint stated a valid cause of action, and the trial court erred in sustaining defendant's demurrer."

LATER IN THE OPINION, JUSTICE TOBRINGER STATED, "Underlying this uniform judicial reluctance to sanction the use of public funds for election campaigns rests an implicit recognition that such expenditures raise potentially serious constitutional questions."

JUSTICE TOBRINGER RECALLS THE SUPREME COURT OF CALIFORNIA DECISION IN GOULD v. GRUBB (1975), FROM WHICH HE QUOTES, AS FOLLOWS: "Observing that [a] fundamental goal of a democratic society is to attain the free and pure expression of the voters' choice of candidates,' we concluded that 'our state and federal Constitutions mandate that the government must, if possible, avoid any feature that might adulterate or, indeed, frustrate, that free choice. ...' (Emphasis

added) (14 Cal.3d at p. 677, 122 Cal.Rptr. at p. 388, 536 P.2d at p. 1348) (See *Rees v. Layton* (1970) 6 Cal.App.3d 815, 823, 86 Cal.Rptr. 268; cf. *CSC v. Letter Carriers* (1973) 413 U.S. 548, 554-563, 93 S.Ct. 2880, 37 L.Ed.2d 796; *Hoellen v. Annunzio* (7th Cir. 1972) 468 F.2d 522, 526)

IN HIS CONCLUSION, SPEAKING FOR THE MAJORITY OF THE SUPREME COURT OF CALIFORNIA, JUSTICE TOBRINGER REASONED, "A state park department's use of public funds to finance an election campaign in favor of a park bond issue may, at first blush, seem like a quite innocuous, and perhaps even salutary, practice. But, as the United States Supreme Court cautioned nearly a century ago, 'unconstitutional practices [often] get their first footing in their 'mildest and least repulsive form.' (*Boyd v. United States* (1886) 116 U.S. 616, 635, 6 S.Ct. 524 535, 29 L.Ed. 746.) In our polity, the constitutional commitment to 'free elections' guarantees an electoral process free of partisan intervention by the current holders of governmental authority or the current holders of the public treasury. Against this background, and in light of current statutory provisions, we must conclude that the director of the park department lacked authority to expend public funds for the purpose of promoting the passage of the 1974 park bond issue."

IV. *CAMPBELL v. ARAHIOE CTY. SCH. DIST #6* (90 F.R.D. 198 (1981))

THIS ACTION OCCURRED IN THE UNITED STATES DISTRICT COURT OF DENVER, COLORADO, AND WAS DECIDED ON MAY 19, 1981 BY FEDERAL DISTRICT JUDGE MATSCHI. IN HIS OPINION AND ORDER, JUDGE MATSCHI DESCRIBED THE UNDERLYING CONFLICT AS: "The plaintiffs seek a summary judgement declaring that the defendants acted unlawfully in attempting to influence voter opposition to a proposed constitutional amendment to the Colorado Constitution. That amendment, which was submitted and disapproved at the general election on November 2, 1976, was placed on the ballot by petition in exercise of the power of initiative reserved to the people in Article V, Section 1 of the state constitution."

THE OPINION THEN QUOTES THE BALLOT ISSUE, WHICH WOULD HAVE REQUIRED VOTER APPROVAL OF INCREASES IN ALL STATE AND LOCAL TAXES. THE PLAINTIFFS WERE CITIZENS OF THE RELEVANT JURISDICTION, RESIDENTS, TAXPAYERS, QUALIFIED ELECTORS, AND SIGNERS OF THE CONTESTED INITIATIVE MEASURE. JUDGE MATSCHI SAID, "Each of the individual plaintiffs had signed the initiating petition and actively supported the proposal.", AND LATER, "The individual plaintiffs have all proceeded pro se in this litigation. They clearly have standing to pursue the claim for declaratory judgement because they have asserted an injury-in-fact to their freedoms of speech and assembly protected by the First

Amendment to the United States Constitution and each of them has a "personal stake" in the controversy. *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, 438 U.S. 59, 98 S.Ct. 2620, 57 L.Ed.2d 595 (1978). Additionally, as taxpayers within the defendant governmental units they have an immediate and direct interest in preventing misapplication or misuse of public funds by their elected representatives where the expenditures result in a reduction of plaintiffs effectiveness in their attempts to persuade the people of Colorado to exercise their sovereign power. This is not a case in which the taxpayers claim only financial impact from payments out of the public treasury. Cf. *Warth v. Seldin*, 422 U.S. 290, 95 S.Ct. 2197, 45 L.Ed. 2d 343 (1975), *Flast v. Cohen*, 392 U.S. 83, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968); and *Massachusetts v. Mellon*, 262 U.S. 447, 468, 43 S.Ct. 597, 600, 67 L.Ed. 1087 (1923)."

LATER IN THE OPINION, JUDGE MATSCHI TALKS ABOUT CONSTRUING THE INVOLVED COLORADO STATUTE, WHICH IS SIMILAR IN INTENT TO MONTANA'S M.C.A. 13-35-226(3), AND THE REASONS, "In construing (section) 1-45-116, it is necessary to draw a distinction between the concerns which may motivate those holding public office to speak out as community leaders, and the concerns which are directly involved in questions which come before them for an official decision. That difference can become clear by asking a disjunctive question about the objective of those in authority in using public funds to publicize their position on an issue. Are they seeking to influence the thinking of their fellow citizens on a question in which they share a common concern or is it an effort to inform the electorate in asking for approval, affirmation, or ratification of some official action? In this case it is clear that the defendants sought to obtain a negative vote on a question which went well beyond anything they could decide in their representative roles. ... Those who have a temporary hold on delegated power have no official concern in retaining it. Therefore they have no authority to use public resources to urge rejection of a people's petition." (Emphasis added)

"... Reading & 1-45-116 in the manner urged by the defendants (to sanctify their expenditure of public funds in opposition of a ballot issue - GSM) would ... also infringe upon those individual freedoms which are protected by the First Amendment to the United States Constitution, applicable to the states under the Fourteenth Amendment. Indeed, the invocation of those protections gives this court the jurisdiction in this matter under 28 U.S.C. & 1333 to construct a remedy under 42 U.S.C. & 1983. Since the federal question claim is substantial, there is clearly a pendant jurisdiction to consider the state claim that the defendants were acting ultra vires. *Mendoza v. K-Mart, Inc.*, 587 F.2d 1052, 1056, (10th Cir. 1978)

"It is this court's responsibility to give state statutes a construction which will be consistent with the limitations and

protections of the United States Constitution and the Colorado Constitution." (Emphasis added)

JUDGE MATSCH ALSO CONSIDERED THE REQUESTED REMEDY OF REIMBURSEMENT OF THE TAXPAYERS' ACCOUNTS, FOR FUNDS ILLEGALLY SPENT IN OPPOSITION TO THE BALLOT ISSUE, AND DECLARED, IN HIS CONCLUSION, THAT, "ORDERED that the motion for summary judgement filed by the plaintiffs and plaintiff in intervention is granted and the Clerk of this court shall forthwith enter a judgement declaring that the contributions and contributions in kind made by the defendant school districts and city were unauthorized expenditures of public funds under Colorado law and directing the government officials of those school districts and city to obtain reimbursement of those expenditures for their respective treasuries."

THIS, HOWEVER, WAS NOT THE LAST OF CAMPBELL v. ARAPAHOE. THE DEFENDANT'S APPEALED THE DECISION OF THE DISTRICT TO THE UNITED STATES COURT OF APPEALS, 10TH CIRCUIT, WHERE THAT COURT CONCURRED WITH, AND UPHELD, THE DECISION OF THE DISTRICT COURT ON APRIL 8, 1983. 764 F.2d 561 (1983).

#### V. CONCLUSIONS

IT IS READILY APPARENT TO THE READER THAT THE WEALTH OF PREVIOUS COURT DECISIONS HAVE FIRMLY HELD THAT THE UNAUTHORIZED USE OF PUBLIC RESOURCES, BY PUBLIC EMPLOYEES, IN A PARTISAN MANNER INVOLVING ELECTIONS, ESPECIALLY CONSTITUTIONAL INITIATIVES, IS A DEPLORABLE VIOLATION OF MOST STATUTORY AND CASE LAW, OF STATE CONSTITUTIONS, OF THE UNITED STATES CONSTITUTION, OF THE RIGHTS OF ELECTORS TO EXPECT AND RECEIVE UNTAINTED ELECTIONS, AND OF ALL STANDARDS OF FAIRNESS, FAIR PLAY, AND THE PROPER AND LAWFUL SPIRIT OF ELECTIONS IN THESE UNITED STATES. ONE EASILY RECALLS JUDGE MATSCH'S COMMENT IN MOUNTAIN STATES v. DENVER, WHEN HE SAID, "There can be no adequate remedy to compensate for such a loss (of the right of the electors to a "free discussion of the reasons why the electors should approve or disapprove" the ballot issue)."

Select Realty

P.O. Box 20762

Billings, Montana 59104

EXHIBIT 5  
DATE 2/14/95  
HB 342

(406) 252-9470

2-6-95

Matt Denny  
House of Representatives  
Helena, MT. 59601

Dear Matt,

Enclosed is the information you requested.

No. 1 is a page out of the Billings School District labor agreement. This allows for public facilities to be used for endorsements of the MEA and BETA.

No. 2 is a flyer sent to West High parents and the endorsement of our Superintendent of Schools of the fly-organizing West High Stationery.

No. 3 is a flyer prepared by the district and sent to all parents through the children.

No. 4 I understand that parents are called and urged to vote for the mill levies. It seems parents names and phone #'s should be kept confidential by the administration.

Re: Helen: Call if you need further help

(1)

**Subd. 3.** The Association may require of each non-member the payment of the representation fee. The fee shall cover the services of the Association in discharging its obligation to represent members of the bargaining unit in the process of negotiating and administering the collective bargaining agreement.

- (a) The amount of such fee shall be determined by the Association.
- (b) The Association will certify the amount of the fee and a list of non-Association members to the School District. The School District shall collect the fee from the non-Association members and transmit the monies to the Association in the same manner specified above for the collection of dues. Each individual contract of employment offered by the Board will contain an authorization for payroll deduction of the representation fee by non-association members.
- (c) Any dispute concerning the amount, propriety, or the method of collection of the representation fee shall be solely between the affected bargaining unit member and the Association. The Association will provide an internal review procedure wherein non-members may challenge the determination of the fee for the Association services in representing members of the bargaining unit in the process of negotiating and administering the collective bargaining agreement. Disputes concerning the representation fee assessed to such non-members may not be processed through the grievance procedure contained in Article XI.

**Section 4. Release Time for BEA Officer:** The School District will provide up to full release time for one Executive Officer to permit said officer to attend to Association business at no loss of salary or fringe benefits. The Association will determine which individual will be released and the Association will determine the amount of time the individual will be released and notify the District prior to June 1 of the proceeding year. Such release time shall be reimbursed monthly to the School District on a pro rata basis.

**Section 5. Information:** The School District agrees to furnish to the Association upon written request to the Superintendent such information, or access to such information as is not confidential and is available.

**Section 6. Communication:** Representatives of the Association will be permitted to transact Association business on school property at all reasonable times, provided that this shall not interfere with or interrupt normal school operations. Representatives of the Association may meet with a teacher or teachers during the regular working day (see Section 1, Article VI) unless a teacher is engaged in a pupil related contact, faculty meeting, conference or other assignment from the principal. Transaction of Association business shall include the right to the use of a reasonable part of a bulletin board in cooperation with the building principal. The bulletin board will be in a teacher use area not normally accessible by students.

**Section 7. Meetings:** The Association and its representatives shall have the right to use school buildings at all reasonable hours for meetings. Scheduling shall be coordinated with the principal of the building in question in advance of the time and place of such meetings.

**Section 8. School Mail:** The Association shall have the right to use the inter-school mail facilities and school mail boxes as arranged with the Superintendent of Schools. The School District shall not be responsible if BEA mail is inadvertently not delivered. Except for summaries of endorsements of the MEA/BEA PAC, school mail may not be used by the Association for the purpose of supporting any candidate for public office. All mail sent by the exclusive representative shall be clearly identified as being issued by the BEA.

**Section 9. Meet and Negotiate:** Neither the Association nor the School District shall attempt to meet and negotiate with any individuals except through the officially designated representative of the parties.

June 1, 1994

BILLINGS WEST HIGH SCHOOL  
2201 ST. JOHNS AVENUE  
BILLINGS, MONTANA 59102

Dear Friend of Billings West High School:

On June 7, 1994, local taxpayers will have the opportunity to support our children by voting for School District #2's mill levy. As you can see from the reverse side of this letter, there are many crucial items which will be supported by funds provided in this vote.

*The cost to the taxpayers is the market value of your home:*

**Tax Impact (per year):**

\$50,000 market value home -- \$4.55  
\$75,000 market value home -- \$6.83  
\$100,000 market value home -- \$9.11

If the mill levy is defeated, the School Board has endorsed, for the time being, cuts in the following programs at West High:

*School Safety and Security  
At-Risk Student Support  
Summer School  
Gifted and Talented Projects To Be Enacted  
Teaching Supplies & Classroom Materials  
Health and Safety Programs  
Sophomore Volleyball, Football, Boys' & Girls' Basketball  
Instructional Technology  
Audit Services*

As your representatives on Parent Advisory Council and the Golden Booster Club, we want you to have the facts. In addition, we believe that West High needs your "yes" on the June 7th High School Mill Levy.

Cordially,

*Betty Badger*  
Betty Badger, Out-going President  
Golden Bear Booster Club

*Marty Ueland*  
Marty Ueland, In-coming President  
Golden Bear Booster Club

*Jan Forquer*  
Jan Forquer, Out-going President  
Parent Advisory Council

*Dodie Hudson*  
Dodie Hudson, In-coming President  
Parent Advisory Council

June 2, 1994

3:18 pm

TO: WOLFGANG VON EITZEN  
FROM: PETER CARPARELLI PFC  
RE: YOUR URGENT REQUEST TO DISTRIBUTE FLYERS

Your request to distribute flyers is based upon a number of faulty assumptions about the process by which the West High distribution occurred.

First, the flyer was not prepared by private citizens using the district for distribution. The flyer was prepared and distributed by official representatives of recognized parent organizations.

Second, to the best of my knowledge, the flyer was distributed via the U.S. Mail, not by handouts carried by students. All costs of preparation and distribution were borne by the organizations noted on the flyer.

Third, because the distribution of the flyers was an activity of parent organizations, and because the distribution was through the mails, the district has no involvement regarding "permission to distribute (a) flyer(s)."

So, you may certainly use the post office to send out flyers of your own, if you decide to do so. I have no authority to allow or disallow your use of the postal service.

Your request is not analogous to the activity of the organizations you refer to, and therefore, I do not believe that the district needs to agree to your "default" ultimatum. Your conclusion about the affirmative interpretation of "no response" is erroneous. To avoid your taking actions based on your conclusion, and to make it clear, however, I will state that you may not distribute flyers via the schools.

3

## FACT SHEET

### Billings Public Schools Mill Levy

On June 7, Billings voters will have an opportunity to vote on two mill levies recommended by the Billings School Board. One mill levy is for the elementary school district, and the other is for the high school district.

Delivered through  
the School System.

June 2/3, 94

Spurred up  
June 6/94 et  
School

#### WHY MILL LEVIES?

- The REDUCTION OF ABOUT \$1,500,000 OF STATE FUNDING by the 1993 Special Legislative Session FORCES GREATER DEPENDENCE ON LOCAL FUNDING via mill levies and property taxes.
- Your Board of Trustees wants to maintain THE CURRENT LEVEL of programs and services while also ADDRESSING SERIOUS NEEDS.

#### WHAT WILL THE MILL LEVIES FUND?

##### Existing Services and Programs

- Band and orchestra for 800 5th graders
- Middle school activities for 2,300 students
- Current number of teachers
- Sophomore basketball, football and volleyball
- Instructional support staff at today's staffing level

##### Safety and Anti-Violence Efforts

- Assure the safety and security of our staff and students at each of our schools
- Prevention and intervention aimed at the elimination of violence
- Appropriate responses to high-risk students

##### Improved Instruction

- Opportunities for academically gifted and talented high school students
- Instructional supplies, textbooks, and materials
- Basic technology infrastructure (adequate voice, data, and video lines) for classrooms and libraries
- A testing program to increase accountability for academic success

## AND IF THE LEVIES FAIL?

Since the Board of Trustees believes the mill levies are needed to maintain existing programs and services as well as to address other serious needs, the Board will respond to a failed mill levy by RECONSIDERING ALL PROGRAMS now funded without a voted levy, as well as those included in the levies. The resulting budget may include some of the "mill levy" programs, exclude some of the "non-voted" programs, or a mix of each.

## OTHER FACTS

The Billings Public Schools are amongst the "low spending districts" statewide, as evidence by the fact that :

- our high school expenditures are BELOW THE BASE LEVEL OF FUNDING REQUIRED BY STATE LAW.
- our elementary expenditures BARELY EXCEED MINIMUM FUNDING LEVELS REQUIRED BY STATE LAW.
- Our administrative staffing and costs are the lowest of all AA schools when compared to number of staff and students.

## WHAT WILL IT COST?

<u>ELEMENTARY LEVY INCREASE</u>	<u>Property Market Value</u>		<u>HIGH SCHOOL LEVY INCREASE</u>
\$12.45	\$50,000		\$4.55
\$18.67	\$75,000		\$6.83
\$24.89	\$100,000		\$9.11

**PLEASE VOTE JUNE 7TH  
YOUR VOTE COUNTS!!**

EXHIBIT 6  
DATE 2/14/95  
HB 362

July 14, 1994

Governor Marc Racicot  
State Capitol  
Helena, MT 59601

Dear Governor Racicot,

Attached is a copy of a complaint I filed with the Commissioner of Political Practices. I believe the complaint is indicative of campaign practices which are intolerable to a free election process. Your Task Force for Reinventing Government is seeking ways in which government would be more responsive to it's citizens and I am submitting my thoughts on school elections for your consideration.

The attached complaint details specific violations of the election law as it pertains to the Missoula County High School mill levy. The process used in Missoula is similiar to the process which was used in several cities throughout Montana. I am aware of the method being used in Great Falls, Butte, Billings, Florence and Frenchtown. The specifics vary with the locality, but in general the process contains the same pattern. In summary, the school districts do not register as political action committees, teachers are threatened with termination, parents are intimidated through the students with reduced class schedules and elimination of extracurricular activities, and the taxpayer is provided mis-

information which understates the cost of the mill levy. To compound the problem, the taxpayer is paying for most of the cost of the campaign because school personnel, resources and funds are used to disseminate the misinformation. The following are suggestions for restructuring school financing:

First, State financing of schools should be consistent from year to year with consideration being given to increases which reflect inflation and enrollment. The legislature supposedly reduced spending by 4 1/2 percent and allows the schools to increase their budget by 4 percent without voter approval. In Missoula, the two factors were used as the basis for requesting a mill levy increase of \$1,500,000. The rationale is that the school district is allowed a 4 percent increase and requires an additional 4 1/2 percent to offset the State cuts. Using this rationale, costs are shifted to the local taxpayer and, in the case of Missoula, results in a tax increase of approximately 15 percent. If the State legislature mandates cost cuts, the local school district should not be allowed to circumvent the legislative intent.

Second, the rationale used as the basis for calculating the amount required for a mill levy is not supported by a budget. Requests for mill levy elections are prepared in February for the April school election with contingency requests for three additional elections in the event the first general levy fails. The preliminary budget process does not begin until June and proceeds through August 15th when it is final-

ized. In effect, the taxpayer is asked to vote on a mill levy without knowing where the money will be spent. If the levy is passed, the probability of holding the school board accountable for cost containment is minimal. The budget process should precede the election and be the basis for levying additional taxes.

Third, allow only one election per year. Requiring the budget process to be completed prior to an election also has the additional benefit of enabling school districts to schedule teacher staffing without mandatory termination notices on May 1st for non-tenured teachers. Budgets prepared prior to mill levy votes will also provide the parents and taxpayers more opportunity to become involved in the budget process and consequently more supportive of the mill levy. Involvement and support would minimize the necessity of multiple elections.

Fourth, no school resources should be used in support or opposition to a ballot issue. This provision is specified in current election laws, but is ignored by schools seeking passage of mill levies. Budgets prepared with taxpayer and parental involvement should provide the specificity necessary to inform the public of the costs and curriculum objectives of the school. Dealing in objective standards minimizes the need of the schools to deal in subjective budget cuts, threats and misinformation involved in the present election process. The schools should not be allowed to use school personnel, duplicating, mail, facilities or other publicly funded resources to advocate passage of a ballot issue.

Fifth, the use of threats, intimidation and misinformation should be specifically banned from the school election process. The United States and Montana constitution are the basis of free and open elections. Schools should not be allowed to circumvent this time honored tradition.

In summary, I believe the process should require a budget prior to voting on a mill levy and that only one election per year should be held to achieve passage. Most of the abuses of the electoral process would consequently be minimized.

Sincerely yours,

Richard Motta

105 Hearth Court  
Missoula, MT 59801

cc: J. Mercer  
H. Toole  
E. Argenbright  
R. Natelson  
R. Ripley

EXHIBIT

DATE

June 30, 1994

HB

Commissioner of Political Practices

P.O. Box 202401

Helena, MT 59620-2401

AFFIDAVIT: CITIZENS COMPLAINT OF SPECIFIC LAW AND OTHERS REQUESTING PROSECUTION PURSUANT M.C.A. 13-37-113.

This complaint arises from activities of Mary Wagner and Bruce Moyer, Missoula County High School District 1 (MCHS) and other unknown persons who aided and abetted a campaign in favor of a ballot issue effecting a Missoula County election held on May 3, 1994. The election was held for the purpose of levying sufficient mills to collect \$1,500,000 for the general maintenance and operation of the MCHS District 1 schools.

First, the rules for establishing political committees were violated. M.C.A. 13-37-201 requires a campaign treasurer. M.C.A. 13-37-205 provides that each political committee shall designate one primary depository for the purpose of depositing all contributions. M.C.A. 13-37-207 requires the deposit of all funds and a statement showing the amounts received by the campaign treasurer. M.C.A. 13-37-208 mandates the keeping of detailed accounts of all expenditures. M.C.A. 13-37-209 requires that certain records be kept and certain reports be filed. M.C.A. 13-37-210 requires filing a certification and organization statement with the Commissioner of Political Practices. MCHS mailed a request for support of the mill levy (Exhibit A) sponsored by the Missoula Music Parent Organization to pay for mailings and an ad to be run on May

1st. A full page ad (Exhibit B) was placed in the Missoulian on May 1, 1994. The ad urged the public to "PLEASE VOTE FOR THE MCHS MILL LEVY ON TUESDAY, MAY 3.". The ad was signed and paid for by the Parents and Friends of Missoula County High School and Morgenroth Music. The Missoula Music Parent Organization and the Parents and Friends of Missoula County High School and Morgenroth Music are not certified as a political committee and, therefore, are also in violation of the above laws. The above persons stated and other persons unknown violated all of these provisions by conducting a campaign and spending money thereon without complying with any of the provisions.

Second, the persons specified above violated certain laws pertaining to public employees. Mary Vagner and Bruce Moyer are public employees under the supervision of the Missoula County High School District Board of Trustees. Pursuant to Montana Code 13-35-226, Election and Campaign Practices and Criminal Provisions, paragraph (3), "No public employee may solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at his place of employment". From April 21, 1994 through May 2, 1994 an ad was placed in the Missoulian (Exhibit C) soliciting support for the mill levy. The ad was signed by Mary Vagner and Bruce Moyer and paid for by Missoula County High Schools. The ad was placed by public employees appropriating public funds in support of a ballot issue and a violation of Montana Code 13-35-226. At Big Sky HS, unknown public employ-

ees harangued students for an hour and a half at an assembly about the effect of the mill levy failure. Meetings were held for the parents. At the meetings, pamphlets were distributed, speakers made assertions about alleged effects of the budget cuts and teachers were available to discuss the class reductions which would result from the mill levy failure. Other public meetings were held to allege to the taxpayer what effect the budget cuts would have on the school system. The overall campaign was supervised by the above stated persons and aided and abetted by other unknown public employees.

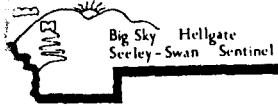
Third, M.C.A. 13-35-218 specifically prohibits coercion and undue influence of voters. A campaign was conducted which stressed the termination of teachers, reduction of available classes for students and extensive reductions in extracurricular activities. The attached pamphlet (Exhibit D) was distributed in support of the proposed cuts "if the mill levy failed". Taxpayers, parents, teachers and students were led to believe that current spending levels would be decreased by \$2,168,722 and that a "worst-case" scenario for operating the schools would be the result of not passing the school levy. The campaign threatened reductions of teaching staff and other budget items for consideration totaling \$1,334,722. Cuts to extracurricular activities totaled an additional \$834,000. The proposed cuts would result in an unaccredited school district operating without extracurricular activities. The campaign presented a "worst-case" scenario without presenting facts. There was no budget adopted by the

tions in other taxes which are not an issue of the election. The clear intent of the election law is to avoid misinformation or coercion which would unduly influence or intimidate the elector during the voting process. The campaign by the aforementioned persons clearly involved misinformation and intimidation.

Fourth, Missoula County High School (MCHS) provided "studies" and pamphlets to indicate that 66 teachers would be terminated and classes would be reduced accordingly. Pursuant to Montana Code Annotated (MCA), 13-35-226(1), "It is unlawful for an employer to exhibit in a place where his workers or employees may be working any handbill or placard containing any threat, promise, notice or information that in case any particular ticket or political party, organization or candidate is elected, work in his place or establishment will cease, in whole or in part or will be continued or increased: his place or establishment will be closed: or other threats or promises (express or implies) intended or calculated to influence the political opinions or actions of his workers or employees." The 66 teachers were directly intimidated with termination and were sent termination notices.

The election campaign was orchestrated by public employees in such a manner as to intimidate teachers and use misinformation to unduly influence parents and taxpayers during the electoral process. Political committees did not comply with the certification and reporting requirements of the Mon-

MISSOULA COUNTY  
HIGH SCHOOLS



MINISTRATIVE OFFICES  
10 South Avenue West  
Missoula, MT 59801  
Phone: 406 / 728-2400

BIG SKY HIGH SCHOOL  
10 South Avenue West  
Missoula, MT 59801  
Phone: 406 / 728-2401

HELLGATE HIGH SCHOOL  
10 South Higgins Avenue  
Missoula, MT 59801  
Phone: 406 / 728-2402

SEELEY-SWAN HIGH SCHOOL  
Box 416  
Seeley Lake, MT 59868  
Phone: 406 / 677-2224

SENTINEL HIGH SCHOOL  
101 South Avenue West  
Missoula, MT 59801  
Phone: 406 / 728-2403

ADULT AND CONTINUING  
EDUCATION  
901 South Sixth West  
Missoula, MT 59801  
Phone: 406 / 549-8765

# Missoula County High Schools

April 18, 1994

EXHIBIT

DATE

HB

Dear Parents of the Class of 1995:

Re: Parent Meeting, Monday, April 25, 7:00 p.m.,  
Big Sky High School

As you now know, Missoula County's failure in passing the school mill levy is causing the Board of Trustees and Administration the need to plan for the \$1.5 million decrease which may be necessary. A number of different options are being worked on, including the extra-curricular activities which cost \$1.1 million.

One option includes the implementation of a six-period school day for all students. We have run your student's schedule for 1994-95 in two forms. One will be an eight-period schedule as we had originally planned to offer based on your student's request for classes. The second schedule is a six-period, but is based on the selections made for the eight-period day. This will give you the chance to evaluate the class opportunities for your student. The six-period day will provide very limited upper class advanced offerings because of budget cuts.

On Monday, April 25, we will hand out the schedules to your students with explanations about them. That evening at 7:00 p.m. in the gymnasium at Big Sky High School, we would like to invite the parents and the students to attend a meeting to discuss the two different schedules and other possible future needs of making any changes in their program. Support service teachers will be available to answer questions related to collaborative classes.

We strongly urge you to be an active participant in your student's educational choices for 1995. Please attend this meeting on Monday, April 25, at 7:00 p.m. If you have a conflict, feel free to call the school at any time at 728-2401 and talk to any Administrator or Counselor.

Thank you for your genuine concern and participation in your student's education.

Sincerely,

Darlene F. Smith, Principal  
Big Sky High School

Advertisement

## MISSOULA COUNTY HIGH SCHOOL LEVY ELECTION

The Tuesday, May 3 mill levy election will affect the Missoula County High Schools' budget for 1994-95. The high schools are asking the voters to act on a mill levy request for 1.5 million dollars. \$761,000 of this is current instructional money to be renewed. The remaining \$740,800 is requested to help educate our current students, and to educate the 200 new students expected, due to community growth. The District is losing 4.5% in state funding next year. If the levy fails, proposed cuts include extracurricular activities like sports, drama, choir, speech and clubs, as well as the loss

of up to 66 teachers, instructional assistants, the Young Family Program, food service, support staff, materials, computers, repairs and field trips. If the levy passes the district will be able to maintain the current programs for students. The tax increase would be just under \$19, but due to decreases in transportation, adult education, debt service and building reserve funds the total increase in 1994-95 would be less than \$5 per year on an \$80,000 home. It is important for the citizens to vote Tuesday, May 3. Call the Administration Building for any additional information.

## Missoula County High Schools

Paid for by Missoula County High Schools, 915 South Ave. W., Missoula, MT 59801

**Mary Vagner, Superintendent, Bruce Meyer, Business Manager: 728-2400**

# **URGENT! URGENT! URGENT! URGENT!**

April 18, 1994

Dear Missoula Parents, and Friends,

As Missoula High School Band, Orchestra, and Choir parents, we are writing to encourage your support in *voting for* the Missoula Elementary District #1 and Missoula County High School District #1 voted levies. We are strong supporters of a well-balanced education that includes the visual and performing arts, music, elective/exploratory courses, and extra-curricular activities. *These are in grave danger of being eliminated.*

***If the levies pass:*** Basic class offerings and student activities will be maintained at the present level with reductions in state moneys only affecting schools' supplies and non-instructional services.

***If the levies fail:*** The school board and administration will have no choice but to cut all programs not mandated by state law.

***What will be cut? PROGRAMS AND TEACHERS/ADMINISTRATION FOR:***

- ART - K-5
- MUSIC - K-3
- P.E. - K-3
- BAND - 5TH GRADE
- ORCHESTRA - 5-12
- PROJECT EXCEL - TWO TEACHERS
- CLASSROOM INSTRUCTIONAL ASSISTANTS, LIBRARY AIDES
- ALTERNATIVE LEARNING CENTER
- CLASSROOM TEACHERS
- MATERIALS, SUPPLIES, EQUIPMENT, AND BUILDING MAINTENANCE
- SEVEN PERIOD DAY CUT TO SIX PERIODS - SHARP REDUCTION OF ELECTIVE CLASSES FOR STUDENTS
- EXTRACURRICULAR ACTIVITIES - REDUCTION OR ELIMINATION OF THE FOLLOWING: All-City - Jazz, Winds, Honors Orchestras, Honors Choirs, Basketball, Volleyball, Track, Football; HIGH SCHOOL - Band, Choir, Orchestra, Football, Basketball, Cross-Country, Soccer, Wrestling, Swimming, Volleyball, Track, Golf, Tennis, Softball, Speech, Drama, Cheerleaders, DECA, Drill Team, Student Clubs, Intramurals

***UP TO 50 CERTIFIED PERSONNEL WILL BE ELIMINATED FROM MISSOULA ELEMENTARY SCHOOLS***

***UP TO 66 CERTIFIED PERSONNEL WILL BE ELIMINATED FROM MISSOULA HIGH SCHOOLS***

The Montana school funding laws require school districts to renew the local funding by a voted levy each year. This year is more critical than ever because 4.5% of our state moneys were eliminated from our school funding by the 1993 special legislative session. However, the law allows for up to 4% to be reinstated through our local voted school levies. Please encourage friends and neighbors to:

***VOTE BOTH DAYS!***

***TUESDAY, APRIL 26 - ELEMENTARY SCHOOL DISTRICT #1***

***TUESDAY, MAY 3 - MISSOULA COUNTY HIGH SCHOOLS***

*Respectfully,*

*Big Sky Band Parents, Hellgate Band Parents, Sentinel Band Parents, Big Sky Choral Parents, Hellgate Choral Parents, Sentinel Choral Parents, Missoula High School Orchestra Parents*

# LOCAL SCHOOL LEVIES -- Your stake in Missoula education

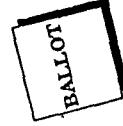
*Missoula Elementary School District One and Missoula County High Schools*

**BALLOT**

**Tuesday, April 5 ...**

Missoula voters will go to the polls. Here are the issues:

## 1. School Board Elections



### School District One

**School District One:** Two three-year positions will be filled, and voters will choose from three candidates -- Incumbent Rosalie Buzzas, Maureen Curnow (who currently serves on the

Missoula County High Schools school board) and Russell Hooper.

**Missoula County High Schools:** Three positions will be filled until June 30. As of July 1, the MCHS board will cease to exist because of unification of the two districts. Voters will choose from four candidates -- Incumbents Karen Ward, Greg Fine and Beth Loehnen and Hugh Smith.

## 2. Voted levies



### School District One

During the special Montana Legislative session in November 1993, the Legislature voted to cut school spending by 4.5 percent. This was done in response to the petition drive that nullified tax increases passed during the regular session. The Legislature also gave schools permission to ask their local taxpayers to reinstate 4 percent of the funds through voted levies on local property taxes.

**School District One:** The voted levy would raise \$1,101,110. If the levy passes, the total tax increases for all funds would be no more than \$18 a year on a \$80,000 home.

**Missoula County High Schools:** The voted levy would raise \$1,501,952. If the levy passes, the total tax increases for all funds would be no more than \$5 a year on a \$80,000 home.

## 3. If the levies fail, what will have to be cut from school budgets?

**School District One:** \$1.25 million will be cut if the voted levy fails. Cuts will come from staff, programs and services.

**Missoula County High Schools:** \$ 1.1 million will be cut if the voted levy fails. Cuts will come from staff, programs and services.

## QUESTIONS?

Elementary School District One  
Jacob Block, Superintendent  
728-4000 ext. 1022

### School Board Members

Mary Barton	543-5361 H, 728-2539 B
Bruce Buchman	251-5399 H, 549-0058 B
Rosalie Buzzas	728-0289
Dolores Cederberg	549-2649
Lori Durin	543-6055 H, 721-9369 B
Mike Kruger	549-2026 H, 721-5756
Mike Kuplik	549-3123 H, 243-2925 or 4575

Missoula County High Schools  
Mary Vagner, Superintendent  
728-2400

### School Board Members

Karen Ward	728-3236
Greg Fine	549-4211
Julie Hacker	244-5521
Maureen Curnow	549-6250 H
Addrien Mark	243-4602 B
Beth Loehnen	677-2555
Pamela Shore	728-5324
	721-1391

# LOCAL SCHOOL LEVIES -- Your stake in Missoula education

*Missoula voters will go to the polls*

Tuesday, April 26, for Elementary School District One

*and*

Tuesday, May 3, for Missoula County High Schools

*Please remember  
to vote!*

Polls are open from noon to 8 p.m.

## *Why are the voted levies important?*

During the special Montana Legislative session in November 1993, the Legislature voted to cut school spending by 4.5 percent. This was done in response to the petition drive that nullified tax increases passed during the regular session. The Legislature also gave schools permission to ask their local taxpayers to reinstate 4 percent of the funds through voted levies on local property taxes.

**School District One:** The voted levy would raise \$1,101,110. If the levy passes, the total tax increases for all funds would be no more than \$18 a year on a \$80,000 home.

**Missoula County High Schools (Big Sky, Hellgate, Sentinel, Seeley-Swan):** The voted levy would raise \$1,501,952. If the levy passes, the tax increase would be just under \$19, however, due to decreases in the transportation, adult education, debt service and building reserve funds, the total increases for 1994-95 would be less than \$5 a year on a \$80,000 home.

## *If the levies fail, what will have to be cut from school budgets?*

**School District One:** Proposed cuts include physical education in grades K-3, art in grades K-5, music in grades K-3, fifth-grade band and orchestra, instructional assistants, two Project EXCEL teachers, classroom teachers in the elementary and middle schools, administrative positions, custodial personnel, materials, supplies, equipment and maintenance projects. The cuts could involve up to 50 certified people.

**Missoula County High Schools (Big Sky, Hellgate, Sentinel, Seeley-Swan):** Proposed cuts would be in administration, 66 teachers, instructional assistants, the Young Family Program, special education, library, food service, support staff, extracurricular activities, supplies, equipment and repairs.

## **QUESTIONS?**

Elementary School District One  
Jacob Block, Superintendent  
728-4060 ext. 1022

School Board Members  
Mary Barton 543-5361 H, 728-2539  
Bruce Buchman 251-5399 H, 549-0058  
Rosalie Buzzas 728-0289

Maureen Cumrow 549-6250H, 243-4602  
Lori Durrin 543-6055 H, 721-9369  
Mike Kruger 549-2026 H, 721-5756  
Mike Kupilk 549-3123 H, 243-2925  
or 4575

Missoula County High Schools  
Mary Vagner, Superintendent  
728-2400

School Board Members  
Karen Ward 728-3236  
Greg Fine 549-4211  
Julie Hacker 244-5521  
Addrien Marx 677-2555  
Beth Loehnen 728-5324  
Pamela Shore 721-1391

Maureen Cumrow 549-6250 H  
243-4602 B

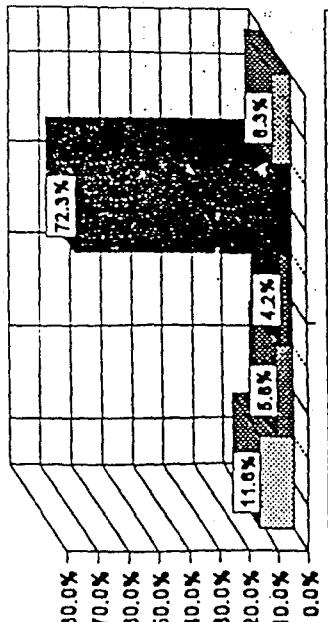
*more on back*

# SCHOOL ELECTION FOR MISSOULA COUNTY HIGH SCHOOL

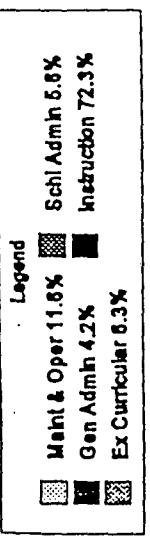
## PROPOSED CUTS IF THE LEVY FAILS.....

ADMINISTRATION & SUPPORT	EFFECT	AMOUNT
Monitor Paid Lunches	Eliminate paid lunches for cafeteria monitors.	\$5,000
Curriculum Consortium	Elimination of coordination with feeder schools.	\$38,166
Bookkeeper	Increase work load of existing staff.	\$20,000
Printshop employee(.5)	Longer turnaround for services.	\$8,050
Library Aide LCP (.5)	Slower cataloging and distribution of library materials.	\$8,050
Instructional Aide (Seeley) (1.5 hr/1 day/week)	Loss of service & supervision of students.	\$5,433
Secretary(Seeley) (1/2 hr per day)	Increase workload on existing staff.	\$394
Lib. Aide Hrs Reduction (1/2 hr per day)	Reduce student assistance in building libraries.	\$19,800
Itinerant Library Aide	Increase workload on existing staff.	\$10,023
Young Family Prog Aides (3.0)	Loss of day care - possible elimination of program. Increased dropout of 14 and 15 year old students.	\$25,250
Missoula Area Resource Center (MARC) (.5)	Loss of staff person that schedules resources for classroom activities.	\$7,500
Food Service (Seeley)	Eliminate food service - all Seeley students; reduce numbers for Chapter 1 Federal money.	\$7,021
<b>INSTRUCTION</b>		
Extra-Curricular:	Reduction or elimination of the following: Football, Basketball, Cross Country, Soccer, Wrestling, Swimming, Volleyball, Track, Golf, Tennis, Softball, Speech, Drama, Cheerleaders, Band, Orchestra, Choir, DECA, Drill Team, Student Clubs, and Intramurals.	\$34,700-1,100,000
Equipment	Unable to replace obsolete equipment. Unable to provide equipment for increased students. Unable to keep up with technology.	\$15,000
Supplies	Unable to provide needed supplies.	\$34,035
Repair	Unable to clean computers.	\$5,000
Computer Software	Unable to maintain technology/compatibility.	\$9,000
Field Trips	Unable to keep up with out of school instructional experiences.	\$3,000
Special Ed. Cont Serv/ Special Ed. Students	Reduction of mental health services and reduction of \$1 per hour pay for student learn to work program as cleaners or cafe workers.	\$14,000

## Where the money goes.....



## Where we get the money.....



Permissive -- state and local taxes (not voted)  
 Voted Levy -- local property taxes  
 State Special Education -- State allocated funds (not voted)  
 Foundation -- state and county taxes (not voted)  
 Other -- interest and interest (not voted)

Reduce up to  
 66 teachers

Permits staff for special needs students. Eliminates elective classes in most areas. Increases class sizes. Regular & Special Ed. students unable to get required classes. 7 & 8 period day may be reduced to six. Graduation requirements may be reduced to state minimum.

Eliminates staff for special needs students. Eliminates elective classes in most areas. Increases class sizes. Regular & Special Ed. students unable to get required classes. 7 & 8 period day may be reduced to six. Graduation requirements may be reduced to state minimum.

**PLEASE remember to vote -- Polls open from noon to 8 p.m.**

MISSOULA, MT 59801  
1012 Tower  
Ruth A. Smith  
TO THE PARENTS OF

Nonprofit Organization  
U.S. Postage  
PAID  
Permit # 267  
Missoula, MT 59801  
215 S. Sixth W.

Missoula, MT 59801  
School District One  
215 S. Sixth W.

### **AN IMPORTANT FACT:**

Although School District One and the Missoula County High Schools will be a unified district beginning July 1, 1994, they will continue to be, by law, *separate entities*.

Therefore, they have separate budgets, and money cannot be transferred from one to the other. The taxes levied from the May 3 levy are paid to MCHS only.

MISSOULA MUSIC PARENT ORGANIZATIONS  
SUPPORT YOUR LOCAL MUSIC PROGRAMS

THE MISSOULA MUSIC PARENT ORGANIZATIONS are going to purchase an ad in THE MISSOULIAN on Sunday, May 1st, in support of the Missoula County High School mill levy. We desperately need your support!

If you would like to have your name listed among the columns of supporters, please print your name, sign this form, and immediately return it in the enclosed envelope. These must be received no later than Monday, April 25th, so please don't delay!

Print names: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

We have had several requests about how you may help financially. If would like to contribute to either the cost of this mailing or the cost of THE MISSOULIAN ad, please send your contribution in the enclosed envelope with check made out to the: Hellgate Band Parents Organization

Thank you in advance for your quick response.

Big Sky Band Parents, Hellgate Band Parents, Sentinel Band Parents, Big Sky Choir Parents, Hellgate Choir Parents, Sentinel Choir Parents, Missoula High School Orchestra Parents

P.S. - Several parents have mentioned how important the music program has been to their students! If you would like to include a one or two sentence statement or testimonial that we could insert among the columns of names, please feel free to turn this sheet over and include that in this mailing.

Who printed form?  
Who gave to students?

# SCHOOL ELECTION FOR MISSOULA COUNTY HIGH SCHOOLS

(Big Sky, Hellgate, Sentinel, Seeley Swan)

Tuesday, May 3, 1994

## CRITICAL ISSUES OF CHOICE



**WHY IS A VOTED LEVY IMPORTANT?** The voted levy of \$1,501,952 in the general fund is needed to operate and maintain the high schools next year because: Student enrollment is growing annually by 5.6% (that's 200 new kids next year). At the same time, the legislature has reduced state funding by 4.5%.

**DOES THE VOTED LEVY MEAN MORE MONEY FOR MISSOULA COUNTY HIGH SCHOOLS?** The \$1,501,952 has two components: \$761,078 is current instruction money to be renewed and the remaining \$740,800 represents new money to educate current students plus 200 more students. This represents a significant amount less per student than the state-wide average for students in similar sized high schools.

**HOW MUCH WILL THE LEVY COST ME?** If the levy passes, the tax increase for the general fund would be approximately \$19, however, due to decreases in other budgeted, non-voted funds such as transportation, adult education, debt service and building reserve, **the total increase for 1994-95 would be less than \$5 a year on an \$80,000 home.**

**WHERE CAN I GET MORE INFORMATION?** There are some facts you should seriously consider on the back page. But please feel free to ask questions right away.

### CONTACT:

Mary Wagner, Superintendent, Missoula County High Schools (MCHS) 728-2400  
Bruce Moyer, Business Manager, MCHS 728-2400  
Greg Fine, Chairperson, MCHS Board of Trustees 549-4211  
Maureen Curnow, Vice Chairperson, MCHS Board of Trustees 243-4602  
Addrien Marx, Secretary, MCHS Board of Trustees 677-2555  
Julie Hacker, Member MCHS Board of Trustees 244-5521  
Beth Loehnen, Member, MCHS Board of Trustees 728-5324  
Pamela Shore, Member, MCHS Board of Trustees 721-1391  
Karen Ward, Member, MCHS Board of Trustees 728-3236

Polls open  
12:00pm to  
8:00pm

**WHAT WILL BE CUT IF THE LEVY FAILS?** A list of proposed cuts include: extracurricular programs, administration, instructional assistants, the Young Family Program (YFP), food service, support staff, up to 66 teachers, materials, supplies, equipment, and repairs. (There is a list of these cuts on the other side.)

**WHAT WILL THE RESULTS OF THESE CUTS BE?** Students will experience more crowded classes, loss of electives, reduction of advanced placement classes, less attention, and reduced special needs support. They will have fewer supplies, less equipment and technology with which to learn and fewer opportunities for after school activities.

**WHY DOES THE BALLOT SAY "Missoula High School District #1"?** As a result of unification, the legal name for Missoula County High Schools will become Missoula High School District #1 on July 1, 1994. This voted levy will support **only secondary education** in a separate budget from Missoula Elementary District #1.

### PUBLIC MEETINGS

Public meetings will be held at the following locations and dates to discuss the levy and answer questions.

Seeley Swan H.S.	Library	April 19	7:00pm
Hellgate Elementary	Library	April 26	7:00pm
Bonner Elementary	Library	April 27	7:00pm
Target Range	Library	April 27	7:00pm
Clinton Elementary	Mrs. Kuehn's Room	April 27	7:00pm
Lolo School	Board Room	April 28	7:00pm
MCAT* (Information Panel)	Live	May 1	8:00pm
	Replay-May 1	May 2	5:00pm

\*Channel 7 for TCI

\*Channel 13 for Fibervision



EXHIBIT 7  
DATE 2/14/95  
HB 362

My name is JOE INGRAHAM, AND I  
APOLOGIZE THAT I COULDN'T BE HERE TODAY  
BECAUSE I HAD TO WORK. YES, I HAD TO  
WORK. I KNOW I SHOULD BE IN SCHOOL  
BUT I DROPPED OUT ~~AT~~ AT THE BEGINNING  
OF THE YEAR SO I COULD PUT MYSELF THROUGH  
HOME SCHOOL. THIS WAY I WOULDN'T HAVE  
TO ENDURE THE HARRASSMENT THAT I DID MY  
SOPHOMORE YEAR WHEN THE MILL LEVY CAME  
UP. I AM IN SCHOOL TO LEARN; NOT TO  
PLAY SPORTS, NOT TO GO TO THE RICE BOWL WITH  
THE BAND, AND CERTAINLY NOT TO LISTEN TO A  
90 MINUTE LECTURE BY SUPERINTENDANT MARY  
VAGNER ABOUT WHY THE MILL LEVY SHOULD PASS!!  
ALL THROUGH MY YEARS OF PUBLIC SCHOOL,

I WAS TAUGHT THAT I HAD SOMETHING CALLED  
A RIGHT OF FREE SPEECH, THE OPPURTUNITY TO  
SPEAK MY MIND IN A PUBLIC FORUM. I  
WENT ON A RADIO TALK SHOW TO STATE MY  
PERSONAL OPINION ABOUT THE MILK LEVY. THE

NEXT DAY I HAD RECEIVED SEVERAL FORMS OF  
RIDICULE FROM STUDENTS, TEACHERS, AND ADMINISTRATORS  
ALIKE. ONE TEACHER WENT SO FAR AS TO GO INTO  
MY PERSONAL FILE AT SCHOOL TO LOOK AT MY  
SCHEDULE AND RETAIN OTHER INFORMATION TO SEND  
TO THE TALKSHOW HOST IN A LETTER SO AS TO  
DISCREDIT ME. IN THIS WHOLE SHUFFLE, BETWEEN  
MEETINGS WITH TEACHERS, AND ADMINISTRATORS, ~~RE~~  
ALONG WITH THE 90 MINUTE LECTURE I FEEL  
TIME WAS WASTED FOR ME AND OTHER STUDENTS.

THE TIME SPENT BY MRS VAGNER COULD HAVE  
BEEN UTILIZED BY EDUCATING THE STUDENTS.

AFTER ALL, ISN'T THAT WHAT SHE ~~WANTED~~  
AND NANCY KEENAN AS SO WORRIED ABOUT?

I BELIEVE THE VOTERS MAKE THEIR POINT CLEAR  
THE FIRST TIME. THERE SHOULD BE ONE VOTE!! IF  
I WERE OF LEGAL AGE TO VOTE, I WOULD PROBABLY  
VOTE "YES" ON A MILL LEVY TOO ON THE SECOND  
OR THIRD TIME JUST SO I WOULDN'T HAVE TO HEAR  
IT ON THE RADIO, AND SEE IT ON SIGNS POSTED ALL  
OVER TOWN AND ON TELEVISION. LISTEN TO THE  
CONSTITUENTS WHEN THEY DISAGREE, NOT JUST WHEN  
THEY AGREE. STOP SHOVING ELECTION AFTER ELECTION  
DOWN THEIR THROATS AND STOP WASTING EVERYONE'S

TIME!

Radio Inglaterra  
2-1-95

11595 MacDaniell Ct  
Missouri MO 59802

STUDENT SCHEDULES  
Report Date : 4-21-94

BIG SKY HIGH SCHOOL  
Page : 102

950163 INGRAHAM JODIE

Semester I	Per/Sec	Semester II	Per/Sec
0330 GEOMETRY	14	0330 GEOMETRY	14
0720 DRAWING	21	0430 BIOLOGY 2	33
0430 BIOLOGY 2	33	0510 U.S. HISTORY	43
0510 U.S. HISTORY	43	0072 ENGLISH 3	53
0072 ENGLISH 3	53	0715 GRAPHIC ILLUST.	63
0715 GRAPHIC ILLUST.	63	0960 LATIN 1	73
0960 LATIN 1	73	0455 GEOLOGY	83
0455 GEOLOGY	83		

.. = Not Scheduled  
xx = Not Available

Mrs Lunen

Jan  
180  
Students  
per day

STUDENT SCHEDULES  
Report Date : 4-21-94

BIG SKY HIGH SCHOOL  
Page : 102

960163 INGRAHAM JODIE

Semester I	Per/Sec	Semester II	Per/Sec
0455 GEOLOGY	xx	0330 GEOMETRY	13
0960 LATIN 1	xx	0510 U.S. HISTORY	34
0430 BIOLOGY 2	xx	0072 ENGLISH 3	63
0715 GRAPHIC ILLUST.	xx		
0720 DRAWING	xx		
0330 GEOMETRY	13		
0510 U.S. HISTORY	34		
0072 ENGLISH 3	63		

.. = Not Scheduled  
xx = Not Available

Board meeting → 5/1  
Budget  
17 mil

Govt. officer she was an a  
honor student & class leader.

EXHIBIT

8

DATE

2/14/95

HB

342

Monday, May 2, 1994

Nancy Curtis  
P.O. Box 147  
Milltown, MT 59851

Dear Mr. Ellingson,

This morning I was angered, frustrated and even saddened to listen to the panel of "concerned parents" that discussed tomorrow's MCHS mill levy on your program TALKBACK. While I'm unaware of the means by which your citizen panel was assembled, I am certain that their opinions were only loosely based on fact, if at all, and demonstrated a sharp anti-levy bias.

I am a journalism and Spanish teacher at Big Sky High School. I taped your program and listened to it during my lunch period: It was indeed frustrating to listen to a recorded version and not be able to call in to represent an educator's viewpoint. You see, when TALKBACK airs, we at MCHS are at work. It seems counter to your constituents' beliefs to assert so, but from 9:07 - 10:07 am the faculty at BSHS are doing their level best to see that the children entrusted to us receive the very best education we know how to offer them. I firmly believe that if you personally, Mr. Ellingson, were to spend a day at Big Sky, you would agree that our faculty is a committed, well-educated and hard-working lot that care for kids and more often than not go above and beyond the nine-to-five call of duty to make a positive impact on their lives. You would see that the vast majority of our students are solid young individuals, busily engaged in the process of learning.... math, science, English, history, foreign languages, the list goes on.

As with any large assembly of human beings, some of our students do not fit into the mainstream. Some are dramatically less abled than others, and their special needs must be tended to here, not unlike they are in those children's own homes. As with the families that raise special needs children, those of us who are entrusted with their education incur greater expense and require more labor to manage them. Others, caught up in some of our culture's disturbing societal trends, choose rougher roads. They might be the smokers across the street, or those that are truant due to family problems, or perhaps drug or alcohol abuse. But as public educators, those children are still our responsibility. In fact, many of their parents have abdicated their parental responsibility to us. If you were to visit Big Sky, Mr. Ellingson, you would see those children too, for they are a part of our unique challenge.

My husband, Ray Curtis, is also a teacher at BSHS. If you were to spend a day with us, you would start working with adolescents at 7:30 in the morning and more often than not still be with them well into the night, doing a Key Club community service project, meeting a yearbook publisher's deadline, or coaching a girls' basketball team. You might attend a parent meeting as we organize our Spanish class trip abroad for next spring, or work on curricular issues with department colleagues. Maybe you could drive across town with us and run an Insight group for juvenile offenders a night or two a week. Mr. Ellingson, I believe that you need to hear, and I wish you could witness for yourself, this side of the issue, for it is a very different view from the negative illusion painted by your program.

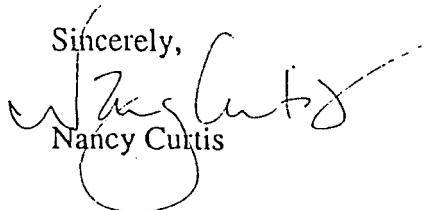
I am not asserting that our school is a perfect place or that we cannot do even better. Public education in America is at a juncture where it must take a long, hard look at its mission and the means by which it undertakes that public mandate. Nevertheless, at Big

Sky, education is about getting better at whatever pursuits one chooses to adopt. We are more attractive to some students than others, but I can assure that every student who walks through our doors with a sincere intent to learn will be given every opportunity to do so, under the tutelage of some of the most dedicated and gifted instructors in the state. Unfortunately, we go about our task with limited resources and too often outdated technological equipment. I am confident, Mr. Ellingson, that if you were put in charge of ferreting out all of the "waste" that is so often referred to on your program, you would come up short in our building. We are a resourceful bunch, perhaps best characterized as making the best of what we do have available to us.

When I heard "Joan" from Friday's program (4-29) talking about students having sex in the parking lot, stashing alcohol in their lockers, teachers stealing food from the cafeteria while paid assistants do all of our grading, and ".... absolutely nothing constructive going on....", I wondered to which school she might be alluding. I certainly didn't recognize Big Sky in her descriptions. Our students, like all teenagers, are imperfect, but they are not the individuals she described. My own students are overwhelmingly bright, respectful, curious, and interesting people. On the other hand, this morning I heard Jodie Ingrahams, a Big Sky student with whom I am not acquainted, on your program. Along with her mother, she disparaged our academic program and lamented that they are not getting the education their tax dollars pay for. They were right. A quick look at Jodie's schedule shows that out of an eight-period schedule, Jodie elects to take only two (2) solid courses, Chemistry I and English II. The remaining six periods are spent as teachers' aides, in study halls, and in an art class. An informal survey of the bulk of my students reveals that most take seven solids and pursue those courses seriously. At Big Sky we offer many, many academic solids, but each student must take some degree of personal responsibility for their own education as well.

Like you, I believe in freedom of speech and the value of a radio program where the community may participate in an open and intelligent exchange of ideas and information. However, as an educator I firmly believe that the worth of your program is sadly diluted so long as opinion is showcased as fact, and your guests are portrayed as credible purveyors of truth when in reality they seem to be folks with an ax to grind and a microphone at their disposal. You can do better. A first step might be balancing your guest list with participants from both sides of the issues you cover on any given show. Your program this morning was a shameful waste of an hour of air time and a notable disservice to our community.

Sincerely,

  
Nancy Curtis

Amendments to Senate Bill No. 37  
First Reading Copy

Requested by Rep. Schwinden  
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
February 13, 1995

[Eliminating the office of lieutenant governor. The secretary of state and governor continue to file separately. Secretary of state will succeed governor.]

1. Title, lines 7 and 8.

Strike: "ELIMINATE" on line 7

Insert: "ELIMINATING"

Strike: "SECRETARY" on line 7 through "THE" on line 8

2. Title, line 9.

Strike: "ARTICLE III, SECTIONS 4 AND 5,"

3. Title, lines 10 and 11.

Strike: "ARTICLE IV, SECTION 14," on line 10

Insert: "AND"

Following: "7,"

Strike: "AND"

Following: "10,"

Insert: "AND 14,"

Strike: "ARTICLE" through "9" on line 11

4. Page 1, line 16 through page 2, line 8.

Strike: sections 1 and 2 in their

Renumber: subsequent sections

5. Page 1, line 23; and page 2, line 3.

Strike: "lieutenant governor"

Insert: "secretary of state"

6. Page 2, line 11.

Strike: "LIEUTENANT GOVERNOR"

Insert: "attorney general"

7. Page 2, line 17.

Strike: "LIEUTENANT GOVERNOR"

Insert: "secretary of state"

8. Page 2, line 27 through page 3, line 19.

Strike: section 4 in its entirety

Renumber: subsequent sections

22. Page 5, line 14.

Following: "state,"

Insert: "secretary of state"

23. Page 5, line 24.

Strike: "LIEUTENANT GOVERNOR"

Insert: "secretary of state"

24. Page 7.

Following: line 27

Insert:

"Section 11. Article VI, section 14, of The Constitution of the State of Montana is amended to read:

"Section 14. Succession. (1) If the governor-elect is disqualified or dies, the ~~lieutenant governor-elect~~ secretary of state-elect upon qualifying for the office shall become governor for the full term. If the governor-elect fails to assume office for any other reason, the ~~lieutenant governor-elect~~ secretary of state-elect upon qualifying as such shall serve as acting governor until the governor-elect is able to assume office, or until the office becomes vacant.

(2) The ~~lieutenant governor~~ secretary of state shall serve as acting governor when so requested in writing by the governor. After the governor has been absent from the state for more than 45 consecutive days, the ~~lieutenant governor~~ secretary of state shall serve as acting governor.

(3) He secretary of state shall serve as acting governor when the governor is so disabled as to be unable to communicate to the ~~lieutenant governor~~ secretary of state the fact of his inability to perform the duties of his office. The ~~lieutenant governor~~ secretary of state shall continue to serve as acting governor until the governor is able to resume the duties of his office.

(4) Whenever, at any other time, the ~~lieutenant governor~~ secretary of state and attorney general transmit to the legislature their written declaration that the governor is unable to discharge the powers and duties of his office, the legislature shall convene to determine whether he is able to do so.

(5) If the legislature, within 21 days after convening, determines by two-thirds vote of its members that the governor is unable to discharge the powers and duties of his office, the ~~lieutenant governor~~ secretary of state shall serve as acting governor. Thereafter, when the governor transmits to the legislature his written declaration that no inability exists, he shall resume the powers and duties of his office within 15 days, unless the legislature determines otherwise by two-thirds vote of its members. If the legislature so determines, the ~~lieutenant governor~~ secretary of state shall continue to serve as acting governor.

(6) If the office of governor becomes vacant by reason of death, resignation, or disqualification, the ~~lieutenant governor~~ secretary of state shall become governor for the remainder of the term, except as provided in this constitution.

(7) Additional succession to fill vacancies shall be provided by law.

Amendments to Senate Bill No. 37  
Third Reading Copy

Requested by Rep. Schwinden  
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
February 14, 1995

[Transferring constitutional election duties to the attorney general.]

1. Title, line 9.

Following: "~~JOINTLY~~"

Insert: "PROVIDING THAT THE ATTORNEY GENERAL ASSUME THE SECRETARY OF STATE'S CONSTITUTIONAL ELECTION DUTIES"

2. Page 1, line 23, page 2, line 3.

Strike: "lieutenant governor"

Insert: "attorney general"

3. Page 2, line 11.

Strike: "LIEUTENANT GOVERNOR"

Insert: "attorney general"

4. Page 3, lines 12 and 17; and page 8, lines 13 and 17.

Strike: "lieutenant governor"

Insert: "attorney general"

5. Page 8, line 18.

Strike: "lieutenant governor's"

Insert: "attorney general's"

6. Page 8, lines 26 and 27.

Strike: "lieutenant governor"

Insert: "attorney general"

7. Page 9, line 12 and 15.

Strike: "LIEUTENANT GOVERNOR"

Insert: "attorney general"

EXHIBIT 11  
DATE 2/14/95  
HB 376

Amendments to House Bill No. 376  
First Reading Copy

Requested by Representative Stovall  
For the Committee on State Administration

Prepared by Greg Petesch  
February 11, 1995

1. Page 1, line 22.

Strike: "Native American languages or"

2. Page 1, line 24.

Following: line 23

Insert: "(4) This section is not intended to limit the use of any other language by a tribal government. A school district and a tribe, by mutual agreement, may provide for the instruction of students that recognizes the cultural identity of Native American children and promotes the use of a common language for communication."

# AIA Montana

A Chapter of The American Institute of Architects

February 13, 1995

EXHIBIT 12  
DATE 2/14/95  
HB 476



Representative Dick Simpkins, Chairman  
House State Administration Committee  
Montana House of Representatives  
Capitol Station  
Helena, MT 59620

RE: HB 476

Dear Chairman Simpkins:

The proposal to change the procurement procedure for design professionals on public work to include fee is creating much concern in the architectural profession. The system currently requires selection to be based on qualifications of the architect for the specific project at hand. The public entity sets the criteria for the qualifications and selects the rating process to be used, this is a solid system for selection. A tremendous amount of time is spent by the design professionals preparing for the selection process and in submitting the requested material for review.

It appears that the source of this bill was to allow public entities to compare "apples and apples" proposals for professional services. For the public owner to adequately describe, in detail, the three variables of a contract (quality, quantity and price) in the preliminary stages of their project would be extremely difficult. Each project has distinct requirements that are unique to that particular project. These project-specific requirements are discussed in the contract negotiations phase, where there is open discussion of the owner's budget and timeframe and, together with the selected design professional, a detailed project description is developed so the architect can compile a project-specific fee proposal.

Selection of professional services based on qualifications is a sound process. One does not select a dentist, attorney or doctor based on the cheapest initial dollar investment....the customer visits with several professionals and selects the most qualified to handle the specific task at hand. Cost of services does not always equate to value of services.

Please DO NOT modify the language of the existing law and DEFEAT HB 476. It is a system that works well in the majority of states and at the Federal level.

Sincerely,

Susan Dunbar Bjerke, AIA  
Montana President

cc: State Administration - House Committee Members

Matt Denny	Jay Stovall
Dore Schwinden	Lila Taylor
Matt Brainard	Joe Tropila
Patrick Galvin	Carolyn Squires
Dick Green	
Toni Hagener	
Harriet Hayne	
George Heavy Runner	
Sam Kitzenberg	
Bonnie Martinez	
Gay Ann Masolo	
Bill Rehbein	
Susan Smith	

EXHIBIT 13  
DATE 2/14/95  
HB 399

Amendments to House Bill No. 399  
First Reading Copy

For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
February 13, 1995

1. Page 3, line 20.

Strike: "\$780,000"

Insert: "\$390,000"

2. Page 3, line 21.

Strike: "\$180,000"

Insert: "\$60,000"

3. Page 3, line 22.

Strike: "\$6,000"

Insert: "\$3,000"

4. Page 3, line 23.

Strike: "\$3,000"

Insert: "\$1,500"

5. Page 3, line 24.

Strike: "\$30,000"

Insert: "\$15,000"

6. Page 3, line 25.

Strike: "\$15,000"

Insert: "\$7,000"

7. Page 3, line 29.

Following: line 28

Insert:

"(3) For the purposes of this section, an expenditure subject to voluntary limitation includes:

(a) an expenditure as defined in 13-1-101;

(b) work performed by the candidate on behalf of the candidate's campaign, which must be valued as if the candidate were paid the daily rate of current legislative salary provided in 5-2-301;

(c) volunteer work, which must be valued as if the candidate paid each volunteer worker minimum wage as determined under 39-3-409, that is performed:

(i) on behalf of the candidate; or

(ii) on behalf of a committee independent of the candidate's campaign but that influences the election in favor of the candidate; and

(d) an expenditure made by a candidate, the candidate's family, or a committee, including a committee acting independently of the candidate's campaign, made in support of the candidate or in opposition to the candidate's opponent."

EXHIBIT 14  
DATE 2/14/95  
HB 423

Amendments to House Bill No. 423  
First Reading Copy

For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
February 13, 1995

1. Page 1, line 15.

Following: "(1)"

Insert: "(a)"

2. Page 1, line 17.

Following: "expenditures."

Insert: "(b)"

3. Page 1, line 18.

Following: "includes"

Insert: " (i)"

Following: "committee"

Strike: "and"

Insert: "; (ii)"

4. Page 1, line 19.

Following: "candidate"

Insert: "(iii) work performed by the candidate on behalf of the candidate's campaign, which must be valued as if the candidate were paid the daily rate of current legislative salary provided in 5-2-301;

(iv) volunteer work, which must be valued as if the candidate paid each volunteer worker minimum wage as determined under 39-3-409, that is performed:

(A) on behalf of the candidate; or

(B) on behalf of a committee independent of the candidate's campaign but that influences the election in favor of the candidate; and

(v) an expenditure made by a candidate, the candidate's family, or, subject to [section 6], a committee acting independently of the candidate's campaign, made in support of the candidate or in opposition to the candidate's opponent"

5. Page 1, line 21.

Following: "[section 2]"

Insert: "or in a mutual agreement negotiated between candidates"

6. Page 1, line 22.

Following: "law"

Insert: "or in the mutual agreement"

7. Page 2, line 17; page 4, line 20; and page 5, line 1.

Following: "[section 2]"

Insert: "or in a mutual agreement negotiated between candidates"

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

## State Administration

DATE 2-14-95

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

## State Administration

DATE 2-18-95

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Leo Giacometto	Racicot's Office	✓	

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