

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT & TRANSPORTATION

Call to Order: By **CHAIRMAN ED GRADY**, on January 10, 1995, at
8:07 a.m.

ROLL CALL

Members Present:

Rep. Edward J. "Ed" Grady, Chairman (R)
Sen. Thomas A. "Tom" Beck, Vice Chairman (R)
Rep. Gary Feland (R)
Sen. Eve Franklin (D)
Rep. Joe Quilici (D)

Members Excused: None

Members Absent: None

Staff Present: Skip Culver, Legislative Fiscal Analyst
Lorene Thorson, Legislative Fiscal Analyst
Terri Perrigo, Legislative Fiscal Analyst
Shirley Benson, Office of Budget & Program
Planning
Dan Gengler, Office of Budget & Program Planning
John Patrick, Office of Budget & Program Planning
Rosa Fields, Committee Secretary

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

Committee Business Summary:

Hearing: Judiciary
-Montana Water Court
-Clerk of Supreme Court
Commissioner of Political Practices
Executive Action: Department of Transportation
-McCarty Farms Supplemental
Judiciary
-Global motions re: 1994 base, fixed
cost and inflation/deflation adjustment
-Supreme Court Operations
-Boards and Commissions
-Law Library
-District Court Operations
-Clerk of Court

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HEARING ON JUDICIARY
Montana Water Court

Mr. Bruce Loble, Chief Water Judge for the Montana Water Court, then spoke. The court, which is located in Bozeman, has eleven staff. There are six water masters who are lawyers, four clerical staff, and himself. In addition, they have four Division Water Judges who are district court judges, but do not receive any extra compensation for performing these duties. The Water Court is a temporary program which will sunset when all water rights have been adjudicated in the state.

Judge Loble submitted two requests: 1) that the committee not adopt the Governor's \$21,000 vacancy savings reduction; and 2) that funding for the coming biennium be equal to the \$541,000, base budget for 1994, rather than the \$534,000. If the Legislature did this, he would be able to provide salary increases for water masters which has been requested in the amounts of \$6,000 in the coming year and \$12,000 in 1997. Because of inadequate salaries, the water master positions turn over every 22-23 months. Of the 198 lawyers in state government, the water masters are among the lowest paid. Since it takes six months to a year to train these people, it is vital to retain these positions for a longer time. Since 1991, the salaries for water master positions have been staggered and this has helped retain staff.

In 1994 there was a 37% increase in the number of claims resolved due to the increased productivity related to the water masters positions staying filled. If this trend continues it will save the state \$.5 million. The Department of Natural Resources and Conservation (DNRC) has also experienced a reduction in the number of staff working on adjudication, and continues to expect it will take another 12 years to complete their part of the work. They are ahead of the Water Court, but the Court cannot finish its work until DNRC completes its work.

He stressed that \$28,000 per year (which the lowest paid water lawyers receive) is much less than these people could make outside of state government.

SEN. BECK wanted to know how many water masters would be receiving pay increases if the additional funding is approved. **Judge Loble** said the increase would be directed to the three lowest-paid positions. The amount being requested would be the total for all three employees, and this could be set at \$9,000 per year to avoid exceeding the 1994 base funding level.

There was discussion about the availability of additional funding from Resource Indemnity Tax (RIT) trust fund interest, which is the source of funding for the Water Court. **Ms. Terri Perrigo, Legislative Fiscal Analyst (LFA),** commented that the projected ending fund balance for the RIT accounts is expected to be

negative. The Water Court's funding is included in this calculation.

CHAIRMAN ED GRADY wanted to know how the Water Court would be affected if the proposed vacancy savings were imposed. **Judge Loble** said it would mean a fairly significant staff reduction. Probably a Water Master position would have to be eliminated, and he reiterated that this would slow down the adjudication process.

HEARING ON JUDICIARY
Clerk of Supreme Court

Mr. Rex Renk, Deputy Supreme Court Clerk, explained that **Ed Smith, Clerk of the Supreme Court,** was ill and he was appearing on his behalf. As a small program, the only place they have leeway to absorb cuts or vacancy savings is in operating expenses. The 1991 Legislature authorized \$38,000 for operating expenses, but over the following years this figure was reduced further and it is now down to \$26,000 for the base year. This 1994 figure is lower than it should have been due to imposed vacancy savings. He requested that the operating budget be restored to its former level. Along with this, the 1994 personal services base budget does not include the \$2,500 needed for benefits for one of two people who job-share a position. They will not be able to implement the pay raise being recommended if the \$2,500 is not restored.

Mr. Renk said the major thing they are asking for through an elected official new proposal is an additional FTE. The office, which provides a direct service to the public, has not grown since 1979. However, the court has grown by two members due to an increase in casework. In addition to casework, their duties include the licensing of all the attorneys in the state as well as playing a major role in the administration of the bar examination. Over the past four years the state bar has increased by nearly 400 members. He stressed that the work they do has to be completed in a timely manner. All of this combines to put their staff under a lot of pressure, and he does not feel this level of service can continue to be provided without additional staff.

Mr. Renk brought up that in 1981, a program to keep track of district court decisions was enacted by the Legislature and the Clerk of the Supreme Court's office was directed to prepare it. The Court Administrator's office took over this responsibility due to inadequate staffing in the Clerk's office. The report is not being completed at present due to staffing constraints in that office.

Mr. Dave Stewart, the citizen who was author of the above-mentioned program, explained that he had designed the report due to the disparity that was occurring in sentencing. He hoped that possibly if the judges got a report, they would have something to

base their sentencing decisions on. He added that this information was also for the public to use as a tool to determine which judge to vote for in the elections.

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He passed out a copy of the report as it appeared in the Billings Gazette prior to 1990 or 1991, when it was discontinued. He rose in support of funding the report.

REP. QUILICI asked what the cost of the report would be and how useful it would be to the average citizen. **Mr. Stewart** said that until 1991 he felt the information had been both readily available and useful. **Mr. Renk** said he believed the additional cost wouldn't be more than the cost of the additional FTE, which could be utilized for other duties as well as the report. The report could be included in the costs of the annual court report.

Mr. Chenovick said in 1991 the State Judicial Information System was discontinued, which a lot of this information was probably generated from. Therefore, he was unsure whether they had the information to do the report.

REP. QUILICI said his concern is that this information be beneficial to the people of Montana and be providing a service.

Mr. Renk then asked that the committee not accept the proposed personal services reduction of \$5,287, due to the small size of their staff. Without this reduction he felt they could get by on what is being proposed in the operating budget.

CHAIRMAN GRADY brought up that the Chief Justice had asked for \$1 million per year for court automation activities. He entertained the possibility of receiving some funds from that source for the case tracking database system being requested in an elected official new proposal. **Mr. Renk** said they had not been aware they were going to be part of the overall statistical automation project when the budget request was being prepared. In the spring of 1994 they researched this subject and found an individual who could put the system in for about \$6,000. However, it would be designed specifically for the Clerk's office. He expressed hope they would be included in an automated system but they are asking for separate funding in the event this does not come to pass. He rose in support of the automated recording of statistics. He added that the \$6,000-\$8,000 would be a one-time expense to get them "up to speed."

Mr. Chenovick said he hoped that the Clerk of the Supreme Court would be included in the automation effort so the information superhighway could be taken advantage of. One application would be moving an appeal from District Court to the Supreme Court without paper documents. In the past, however, court automation funds have been directed towards automating the lower courts.

In response to **CHAIRMAN GRADY**, **Mr. Renk** recalled that in 1993 there were a record 657 new filings in the Supreme Court. The 1994 number was 633. The large increase in numbers in 1993 was shown in prisoner filings. In the current year there are more actual appeals, which are more time-consuming. In 1991 there were about 2,800 members of the Montana Bar and now there are over 3,200. It used to be that about 50 out-of-state attorneys attempted to waive into the Montana Bar and last year it was closer to 80 or 90, so the workload in this area of licensing and testing has increased. He reemphasized that they were not trying to "empire-build," but are just trying to provide efficient service to the public. **Mr. Chenovick** said the statewide total for district court cases is about 27,000, with about 10,000 of the filings in Yellowstone County and 8,000 in Lewis & Clark County.

Ms. Perrigo brought up the District Court Reimbursement Program. Funding is statutorily appropriated, but the executive has proposed a personal services reduction in that program in order to fund the proposed pay plan. She submitted that using these statutorily appropriated funds for the pay plan was using them for a purpose other than what was intended. **Mr. Patrick** said this was not a reduction in the statutory appropriation, it is a reduction proposed in **HB 2**. There are FTE in this program which are funded by the statutory appropriation. Historically, the Judiciary does receive pay plan funding and there is a possibility that funding could be allocated in this program. **Ms. Perrigo** agreed with **Mr. Patrick**, but pointed out that even with the personal services reduction they could still incur whatever costs they wanted because the program is statutorily appropriated.

SEN. TOM BECK added that the bottom line was there was less money going back to reimbursement. **Mr. Patrick** disagreed, saying this would not affect the statutory appropriation for district court reimbursement; it is a reduction against **HB 2**. What the reduction would affect would be the rest of the agency.

CHAIRMAN GRADY asked **Mr. Patrick** how the administration had come up with the vacancy savings percentages within the Judiciary. **Mr. Patrick** said 5% was applied to personal services other than judges and the Clerk of Court salaries in each program.

REP. QUILICI wanted to know the effect would be if the committee did not approve any increase in the operations budget beyond the 1994 level. **Mr. Renk** said that if the vacancy savings were applied, they would not be able to provide adequate service. In the past, they have had to make collect phone calls and minimize notices which had to be mailed out in order to achieve vacancy savings. He added that another consequence would be that things wouldn't get done in as timely a way.

EXECUTIVE ACTION ON DEPARTMENT OF TRANSPORTATION
McCarty Farms Supplemental Request

CHAIRMAN GRADY announced with regard to the supplemental request for the McCarty Farms litigation, that the Department of Transportation has said they are able to use highway special revenue instead of general fund to handle these costs, but need a positive motion from this committee to move forward on that.

Motion: REP. QUILICI MOVED TO RECOMMEND THAT THE MCCARTY FARMS SUPPLEMENTAL BE STRICKEN FROM HB 3 IN THE AMOUNT OF \$586,375.

Ms. Perrigo said she had consulted with Skip Culver, LFA for the Department of Transportation, and was informed that it had been determined that there is sufficient appropriation authority in the stores' inventory to pay for these costs in FY95. Consequently, there is no need for a supplemental.

Vote: The question was called for and the motion carried unanimously.

Motion: REP. QUILICI THEN MOVED TO ACCEPT THE RECOMMENDATIONS OF THE DEPARTMENT OF TRANSPORTATION TO FUND THE MCCARTY FARMS LITIGATION FROM THE STORES INVENTORY PROGRAM, IN THE SAME AMOUNT AS LISTED IN THE SUPPLEMENTAL REQUEST.

Vote: The question was called for and the motion carried unanimously.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: n/a.}

EXECUTIVE ACTION ON
JUDICIARY

Motion/Vote: SEN. BECK MOVED TO GLOBALLY ACCEPT THE 1994 BASE BUDGET FOR THE ENTIRE JUDICIARY. The motion carried unanimously.

In regard to procedure, Ms. Perrigo suggested that the committee consider passing global motions allowing the LFA to adjust inflation/deflation and fixed costs numbers as actual figures become more definite. She added that a motion would also be appropriate that recognizes that any changes in inflation/deflation and fixed costs will translate to changes in the actual numbers the committee approves for each agency. She suggested that as a starting point the subcommittee should decide whether to make a positive motion to add in the statewide present law adjustments. If no positive motion is made, then the subcommittee would need to reduce the base budget by an amount equal to these costs in order to provide funds to cover them.

The various strategies for voting on present law adjustments were discussed. Ms. Perrigo explained that the motion made in an earlier meeting of this subcommittee had been to conceptually

approve the fixed costs in the executive budget, but not to actually add them in for each agency.

Motion/Vote: SEN. BECK MOVED THAT THE SUBCOMMITTEE INCORPORATE FIXED COSTS AND INFLATION/DEFLATION COSTS ACCORDING TO WHAT THE FINAL PROPOSED BUDGET WILL BE. The question was called for and the motion carried unanimously.

**EXECUTIVE ACTION ON
SUPREME COURT OPERATIONS**

Ms. Perrigo then outlined the options the committee had in the case of the Supreme Court budget. Discussion took place regarding whether to follow the LFA budget book or the schedules provided by the Supreme Court.

Motion: REP. QUILICI MOVED TO ACCEPT THE TOTAL EXECUTIVE PRESENT LAW ADJUSTMENTS FOR FY96 AND FY97 FOR THE SUPREME COURT OPERATIONS BUDGET (p. D-4, LFA budget book).

Ms. Perrigo said the 2.0 FTE contained in the motion were currently on board, along with three others.

Substitute Motion: REP. FELAND MADE A SUBSTITUTE MOTION TO ACCEPT THE PRESENT LAW ADJUSTMENTS EXCEPT FOR THE 2.0 FTE AND ASSOCIATED PERSONAL SERVICES COSTS FOR CONTINUATION OF COURT AUTOMATION ACTIVITIES.

Ms. Perrigo explained that about \$80,000 would be removed from the totals in each year if the 2.0 FTE are removed. The remainder of the sums contained in PL No. 1 are related to the pay plan increase (and include increases for all 28.75 FTE), vacancy savings, increased benefit costs, etc.

Vote: The motion carried with SEN. FRANKLIN and REP. QUILICI opposed.

Motion/Vote: REP. FELAND MOVED TO ELIMINATE THE FOSTER CARE STUDY NEW PROPOSAL (NO. 1, P. D-4).

In response to a question from REP. QUILICI, Ms. Perrigo mentioned that no motion was necessary to NOT accept the new proposal, as in order for it to be approved there has to be positive action. She said it was her recollection that Supreme Court Operations was successful in receiving grant funds for the current year (1995). If the subcommittee chooses to approve the new proposal but not the matching funds, unless other funds are found the agency may be unable to continue the program past the first year.

Motion/Vote: SEN. BECK MOVED TO ACCEPT NEW PROPOSAL NO. 2, TO TAKE THE VACANCY SAVINGS. The motion carried with REP. QUILICI and SEN. FRANKLIN opposed.

Mr. Pat Chenovick, Supreme Court Administrator, replied that the matching money for the federal funds would have to be found elsewhere in the budget. The Supreme Court Operations budget looks like a large pot of money, but in actuality, he doubted he could find the \$35,000 needed to match the federal money. The last two years of the study would probably not occur. **REP. QUILICI** wanted to know if the match had to come from the general fund. **Mr. Chenovick** said there is a provision for some soft match; however, he was uncertain how much soft match would be available.

CHAIRMAN GRADY asked why this program was in this budget and not the budget for the Department of Family Services (DFS). **Mr. Chenovick** said the main reason is because the U.S. Congress passed the Family Preservation Act, which specifies that the review be handled by the highest court in each state. **REP. QUILICI** pointed out that the intent of Congress was probably to ensure impartiality.

CHAIRMAN GRADY submitted that he was not willing to vote to accept federal money just because it would otherwise be lost. He stressed that the merits of the program needed to be the primary factor. **SEN. FRANKLIN** pointed out that the Legislature had approved the study fairly recently. She felt there should be a commitment to implement it, even though there are issues about accepting federal money.

Mr. Chenovick explained that the last legislative session started the local Foster Care Review Pilot Program, which was designed to conduct an independent review of foster placements currently being made by DFS and the courts. This funding will end at the close of FY95. The federal money in this proposal is to be used to look at the overall system of how the judges and DFS issue orders and how individuals are being treated.

SEN. BECK asked **Mr. Chenovick** if the subcommittee's previous action eliminating the 2.0 FTE for court automation would result in court automation efforts being discontinued. **Mr. Chenovick** said that was correct. They will have neither funds nor staff support for any of the automation currently in place. It was concluded that the program would be crippled but not totally eliminated. **SEN. BECK** said he hated to see the program be eliminated when it was only 1/3 done.

Ms. Perrigo said **REP. FELAND'S** motion included removal of the FTE, but about \$43,000 was still in the present law operations budget for automation.

The Elected Officials New Proposals on pp. D-5 and D-6 were then discussed. **Ms. Perrigo** added there is a fourth elected official new proposal not listed in the LFA budget book, \$25,000 per year for security.

Motion/Vote: SEN. BECK MOVED TO ACCEPT THE PROPOSAL FOR \$25,000 PER YEAR FOR INCREASED SECURITY FOR THE SUPREME COURT. The motion carried.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: n/a.}

EXECUTIVE ACTION ON JUDICIARY
Boards and Commissions

Ms. Perrigo reviewed the present law adjustments and the one new proposal, on pp. D-8 and D-9 of the LFA budget book.

Motion/Vote: REP. QUILICI MOVED TO ACCEPT PL ADJUSTMENTS NO 1-8 ON P. D-8. The motion carried with REP. FELAND opposed and SEN. BECK abstaining.

Motion/Vote: REP. BECK MOVED TO ADOPT THE PROPOSED VACANCY SAVINGS IN THIS BUDGET (NEW PROPOSAL NO. 1). The motion carried with REP. QUILICI and SEN. FRANKLIN opposed.

EXECUTIVE ACTION ON JUDICIARY
Law Library

Motion/Vote: REP. QUILICI MOVED TO ACCEPT THE PRESENT LAW BASE ADJUSTMENTS FOR FY96 AND FY97, ADDING \$29,352 IN 1996 AND \$31,006 IN 1997. The motion carried unanimously.

Discussion took place regarding the new proposal to impose a 5% vacancy savings rate on the Law Library.

EXECUTIVE ACTION ON JUDICIARY
District Court Operations

Motion: REP. QUILICI MOVED TO ACCEPT THE PRESENT LAW BASE ADJUSTMENTS FOR FY96 AND FY97, ADDING \$80,072 IN 1996 AND \$77,814 IN 1997.

Ms. Perrigo pointed out that there are no personal services reductions being proposed because all of the salaries in this budget are for the District Court judges, which are elected officials and have statutorily set salaries which cannot be reduced.

REP. FELAND wanted more information on PL No. 4--travel. Mr. Chenovick said all the judges had been elected and are in place, but they cannot sit for cases they may have been involved in prior to the election. He supposed that the expenses for carryover cases would not extend beyond the coming biennium, provided there is no more turnover.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON JUDICIARY
Water Courts Supervision

Motion: REP. QUILICI MOVED TO ACCEPT THE EXECUTIVE BUDGET FOR FY96 AND FY97.

Ms. Perrigo said the motion would eliminate approximately \$30,000, reducing what was spent in 1994 by that amount. It would mean the Water Court would have a budget of \$509,842 in 1996 and \$514,454 in 1997. The motion would include acceptance of all the adjustments on p. D-16.

Substitute Motion/Vote: SEN. BECK MADE A SUBSTITUTE MOTION TO ACCEPT REP. QUILICI'S MOTION, BUT NOT THE PERSONAL SERVICES REDUCTIONS (NEW PROPOSAL NO. 1). The motion carried unanimously.

EXECUTIVE ACTION ON JUDICIARY
Clerk of Court

Ms. Perrigo reviewed the PL Adjustments and the New Proposal on p. D-18. She added that the Clerk has also submitted two of his own New Proposals, one for an additional FTE and one for the Case Tracking Database System. She said it was her understanding these proposals were being made in case the Court Automation funding is not approved.

Motion/Vote: REP. QUILICI MOVED TO ACCEPT PRESENT LAW ADJUSTMENTS NO. 1-8 ON P. D-18. The motion carried with two opposed.

Motion: SEN. FRANKLIN MOVED TO ACCEPT ELECTED OFFICIALS NEW PROPOSAL NO. 1 ON P. D-18. The motion failed with REP. QUILICI and SEN. FRANKLIN voting "aye."

CHAIRMAN GRADY announced that he would allow two days for the subcommittee to reconsider its actions.

HEARING ON
COMMISSIONER OF POLITICAL PRACTICES

Ms. Lorene Thorson, LFA, gave an overview of the Commissioner of Political Practices budget. She said she believed the Executive was in support of Commissioner Ed Argenbright's proposal regarding Initiative 118 (I-118). Mr. Patrick said the Executive supports complying with I-118.

Mr. Ed Argenbright, Commissioner of Political Practices, said he and his staff of two have given a "whale of a lot of service." He still has ten complaints under investigation from the last election cycle and the workload in this agency has been increased significantly. They have had more requests for information, as well as more complaints, and an increase in the number of

candidates. There has been more than an 80% increase in the number of official complaints filed, and a 30% increase in the number of candidates obligated to file reports. In addition, they had ballot issues where substantial money was involved. At present, his office has not been able to meet the mandate to review reports within ten days. The limited resources the agency has been operating under for the past several years has caused him to not receive travel reimbursement for all of his traveling expenses. He said he will need additional staff in order to implement the provisions of I-118. In the information which the voters were given, it stated that there would be no major fiscal impact, but it listed \$54,900 and \$67,800 as costs associated with the initiative. He requested that the increase as shown be approved and that the request for additional support for I-118 implementation also be approved. A copy of the initiative as it was passed on the ballot was distributed. **EXHIBIT 1**

Mr. John Motl, private attorney, Reynolds, Motl, Sherwood and Wright, Helena, then testified. He added he is a member of the board of Common Cause in Montana and a member of the national governing board of Common Cause. He submitted that the Office of Commissioner of Political Practices is woefully underfunded. He reviewed the past history of the office and its budget. He said the reason the office is in the position it is has to do with a change in personnel which occurred when Commissioner Peg Krivec left and Commissioner Delores Colburg came on board. One third of the budget of this office ended up being eliminated, which left the office without an effective presence.

Mr. Motl said he was the author of I-118. He said he wanted to make it clear that I-118 is not the basis for the request for an additional 4.0 FTE. He discouraged the Legislature from amending I-118. He added that the office does need additional FTE, however.

CHAIRMAN GRADY asked **Commissioner Argenbright** if he anticipated the negative campaigning in the past election to continue. He replied that there is a positive part of the issue: people who were accused of unfair practices for the most part lost the election. If people who resort to negative campaigns find that it doesn't work, they won't continue that approach. He said he would like to have an outreach effort in this area.

CHAIRMAN GRADY wanted to know if **Commissioner Argenbright** was under any time constraints for responding to complaints. He replied that he has about ten still under investigation at present, although he has completed most of them. Seven involve sitting legislators.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: n/a.}

In response to the allegation that I-118 will not mean a major increase in his workload, **Commissioner Argenbright** said they

will in effect have to double their ability to open and close reports and monitor the examination part of the process. The review part will be increased. He felt they would be receiving more contributions with lesser amounts and fewer PAC contributions although the members will be giving individually as well. In summary he said I-118 would significantly increase their workload and is a strong basis for asking for the increase.

SEN. BECK asked for clarification on the new requirements under I-118. **Mr. Argenbright** said in the past, limits applied for one election cycle. Now the primary election will be treated separately. His office will have to make rules to determine what a contested primary is. **SEN. FRANKLIN** commented that it is naive to think any change in the system isn't going to require more labor.

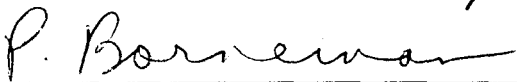
Mr. Argenbright said the staff presently doing reviews believe there is no way the increased amount of work from the passage of I-118 can be handled without additional FTE. Since the voters knew it would involve additional costs to enact I-118 and still voted for it, he feels the Legislature should honor this directive from the people. He said it involved more than just the forms: it also entails reporting requirements, monitoring, dealing with the public. The aggregate limits apply to political parties and someone will have to be assigned to solely work in this area.

ACTING CHAIRMAN QUILICI said the committee would take executive action the following morning.

ADJOURNMENT

Adjournment: Approximately 12:00 p.m.


ED GRADY, Chairman


for DEBBIE ROSTOCKI, Recording Secretary

Note: These minutes were proofread and edited by Terri Perrigo,
LFA.

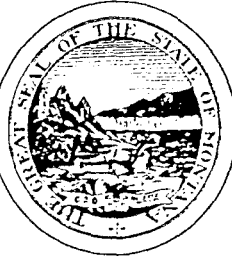
EG/dr

COMMISSIONER OF
POLITICAL PRACTICES

EXHIBIT 1

DATE 1/10/95

HB Political Practices



STATE OF MONTANA

ED ARGENBRIGHT, Ed.D.
COMMISSIONER
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January 4, 1995

RE: Initiative 118--Revising Campaign Finance Laws;
Impact on Workload of Office of Commissioner
of Political Practices

Initiative 118 will have a significant impact on the workload of the office of the Commissioner of Political Practices. The following are major changes dictated by the passage of I-118.

(1) Change in time periods for aggregate limits on contributions:

The initiative changes the time period for limits on aggregate contributions to candidates from the entire election cycle to two "election" periods--one for the primary election and another for the general election. This means that the office will have to "open" and "close" individual files of all candidates for two election periods rather than one, since limitations on contributions to candidates will not "run" through the full election cycle as currently specified by statute. This will, in essence, double the workload.

(2) New limitation combines all political party contributions in a single aggregate limit:

I-118 establishes a new and more demanding method of monitoring a single aggregate limit for all political party committees to each individual candidate. In the past each political party committee had a set limit on how much it could contribute to a specific type of candidate. Aggregate limits were monitored by the Commissioner's office in the same manner as political action committees (PACs).

I-118 sets an aggregate limit on contributions from all political parties and creates a complicated task for monitoring their contributions. For example, a state central committee, each county central committee, and each county women's club would be limited to one aggregate amount that they could contribute to any particular candidate. In addition, the allowable contribution is different for each type of candidate. The initiative includes all candidates, not only statewide and state district candidates but county and city candidates as well--all candidates running for office in the State of Montana. The task of monitoring all these political party committees for a single aggregate limit for each candidate boggles the mind. Current staff with current computer capabilities cannot do this.

(3) Carryover of surplus campaign funds of candidates prohibited; supplements to closing reports will be required within 120 days after each closing report is filed:

Closing reports currently have no specific due date but are filed when all campaign debts are paid. Since the deadline for filing closing reports is a "floating" date, closing reports for campaigns of candidates do not have to be filed on a specific date. Monitoring these reports for a supplemental report 120 days from a "floating" due date will require additional individual monitoring of each candidate's closing report to follow-up 120 days from many different closing report dates. Again, current office staff and computer capabilities are not equipped to handle this.

Conclusion:

I-118 will require extensive changes in the Administrative Rules of Montana (ARM) related to campaign finance reporting; hearings will be necessary. Statutes and rules must be revised and published; brochures and accounting manuals for candidates, committees and their treasurers must be revised, printed and distributed.

The office will be required to process two additional reporting periods. Current law requires one closing report at the end of the complete election cycle. I-118 requires: (1) closing reports for all candidates and political committees for the primary election, (2) closing reports for all candidates and political committees for the general election, and (3) an additional supplemental closing report for all candidates on a "floating" due date 120 days after each closing report is filed.

An additional requirement of I-118 is that political party committees are limited to one aggregate amount for each candidate, a new limitation that requires a new program with a separate function that must be designed and implemented.

The author of the initiative has stated that the "personal benefits" limitation on surplus campaign funds must be determined by the Commissioner on a case-by-case review. This will create an additional burden for the office.

Current staff--two administrative assistants--with two computers cannot absorb these additional tasks. Current workload under present statutes has already increased dramatically; the number of candidates throughout the state who filed for office in the 1994 election cycle increased by over 30 percent. New computer programs will have to be developed to implement tracking systems for the new aggregate limitations and reporting requirements.

The Complete Text of Initiative 118

Be it enacted by the People of the State of Montana:

SECTION 1. Section 13-37-216, MCA, is amended to read: "13-37-216. Limitations on contributions. (1)(a) Aggregate contributions for all elections each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate and political committees organized on his behalf are limited as follows: (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed ~~\$1500~~ \$400; (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed ~~\$750~~ \$200; (iii) for a candidate for public service commissioner, district court judge, or state senator, not to exceed ~~\$400~~ \$100; and (iv) for a candidate for any other public office, not to exceed ~~\$250~~ \$100. (b) A contribution to a candidate includes contributions made to the candidate's committee and to any political committee organized on the candidate's behalf.

(2) (a) A political committee that is not independent of the candidate is considered to be organized on the candidate's behalf. For the purposes of this subsection, an independent committee means a committee which is not specifically organized on behalf of a particular candidate or which is not controlled either directly or indirectly by a candidate or candidate's committee and which does not act jointly with a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions. (b) A leadership political committee maintained by a political officeholder is considered to be organized on the political officeholder's behalf.

(3) All political committees except those of political party organizations are subject to the provisions of subsections (1) and (2). For the purpose purposes of limitation on contributions this subsection, "political party organization" organizations are independent committees means any political organization that was represented on the official ballot at the most recent gubernatorial election. Aggregate contributions by an independent committee to a candidate and political committees organized on his behalf for all elections in a campaign are limited as follows: Political party organizations may form political committees that are subject to the following aggregate limitations from all political party committees: (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed ~~\$8,000~~ \$15,000; (b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed ~~\$2,000~~ \$5,000; (c) for a candidate for public service commissioner, not to exceed ~~\$1,000~~ \$2,000; (d) for a candidate for the state senate, not to exceed ~~\$600~~ \$800; (e) for a candidate for any other public office, not to exceed ~~\$300~~ \$500.

(3)(4) The limitations imposed by this section do not apply to public funds contributed to a candidate under part 3 of this chapter may not accept any contributions in excess of the limits in this section.

(5) For purposes of this section, "election" means the general election or a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only one election

to which the contribution limits apply. If there is a contested primary, then there are two elections to which the contribution limits apply.

Section 2. Section 13-37-218, MCA, is amended to read: 13-27-218. Limitations on receipts from political committees.

(1) A candidate for the state senate may receive no more than \$1,000 in total combined monetary contributions from all political committees contributing to the campaign, and a candidate for the state house of representatives may receive no more than \$600 in total combined monetary contributions from all political committees contributing to the campaign. The foregoing limitations must be multiplied by the inflation factor as defined in subsection (2) for the year in which general elections are held, and the resulting figure must be rounded off to the nearest \$50 increment. The commissioner of political practices shall publish the revised limitations as a rule. In-kind contributions may not must be included in computing these limitation totals. The limitation provided in this section does not apply to contributions made by a political party eligible for a primary election under 13-10-601. (2) "Inflation factor" means a number determined for each year by dividing the consumer price index for June of the year by the consumer price index for June 1980. The consumer price index to be used in determining the inflation factor is the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

NEW SECTION. Section 3. Surplus campaign funds. (1) A candidate shall dispose of any surplus funds from the candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228. In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. The candidate shall provide a supplement to the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

(2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family.

NEW SECTION. Section 4. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 5. Codification instruction. Section 4 is intended to be codified as an integral part of Title 13, chapter 37, part 2, and the provisions of Title 13, chapter 37, part 2, apply to section 3.

NEW SECTION. Section 6. Effective date. If approved by the electorate, this act is effective January 1, 1995.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

General Government

SUB-COMMITTEE

DATE 1-10-95

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
H.A. GOAN	Montana Supreme Court	✓	
BRUCE LOBLE	MONTANA WATER COURT	✓	
PATRICK CHENOVICK	MONTANA SUPREME COURT	✓	
BRENDA HASEMAN David W. Stewart Helena, MT.	Dept of Revenue Self Clerk of the Supreme court	✓	
Judy Meadows	Law Library	✓	
Ray J. Reik	Supreme Court Clerk		
Ed Argenbright	Comm. Pol Practices	✓	
Dulcy Hubbard	Pol. Practices		
Janis Ruth	Comm course	✓ support none	✓ opposed Commissioner's recomm. for HB 1118

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