

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN ETHEL HARDING, on January 25, 1995,
at 10:05 AM

ROLL CALL

Members Present:

Sen. Ethel M. Harding, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Mike Foster (R)
Sen. Don Hargrove (R)
Sen. Vivian M. Brooke (D)
Sen. Bob Pipinich (D)
Sen. Jeff Weldon (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: David Niss, Legislative Council
Gail Moser, Committee Secretary

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

Committee Business Summary:

Hearing: N/A
Executive Action: SB105 SB188 HB91 SB89 SB94

{Tape: 1; Side: A; Approx. Counter: 62.2}

The Committee had some discussion regarding the process involved
with the Governor's Appointments (tape counter 0 to 25).

EXECUTIVE ACTION ON SB105

Discussion: SEN. JEFF WELDON handed out proposed amendments for
SB105 (EXHIBIT 1). SEN. WELDON explained the reason for the
amendment was to provide that only one member of the
Administrative Code Committee did not have the authority to stop
a proposed rule from going into effect. SEN. WELDON said his

amendment suggests that it should take *one half of the committee members* before a proposed rule could be stopped.

SEN. MACK COLE asked Senator Weldon if his proposal was not for a majority vote. **SEN. WELDON** said that is correct, it would not need a majority action, just one half of the committee in agreement.

SEN. KEN MESAROS agreed that one half of the committee expressing concern would be a reasonable amount.

SEN. MIKE FOSTER stated the reason for coming up with one half of the committee rather than a majority is that most issues which would be affected by this could be partisan concerns. If half the committee feels the rule should be reviewed, that seems more fair than if it were just one member.

Motion/Vote: **SEN. WELDON** moved TO ACCEPT THE AMENDMENTS TO SB105. The MOTION CARRIED UNANIMOUSLY on oral vote.

Motion/Vote: **SEN. MESAROS** moved that SB105 DO PASS AS AMENDED. The MOTION CARRIED 7-1 on oral vote with **SEN. PIPINICH** voting no.

EXECUTIVE ACTION ON SB188

Motion: **SEN. WELDON** moved that SB188 DO PASS.

Discussion: **SEN. DON HARGROVE** stated he opposes SB188. **SEN. HARGROVE** related that a town in his district voted for a ten-year review and it passed by only about two votes -- and then it's difficult to find anybody willing to serve on the study board.

SEN. MESAROS said he does not see the necessity of this Constitutional Amendment as periodic review is an on-going process, and the triggering mechanisms identified in SB188 could be quite burdensome. **SEN. MESAROS** also stated his concern that funding for the proposed periodic reviews has not been specifically identified.

SEN. WELDON stated part of the reason the Governor's Task Force to reform government was put together was due to the amount of growth and change within the state government over the last 20 years. The Task Force had come to some valuable conclusions, but they essentially had an ad hoc approach and little time to operate. The Task Force had also concluded that reform should be on-going. **SEN. WELDON** said he believes the Constitution should

contain planned reform sessions which would produce better results.

SEN. VIVIAN BROOKE stated she is a strong supporter of periodic review of local government, and in Missoula there is no lack of volunteers to serve on the review board or committee.

SEN. BROOKE said SB188 seems to take the review of government out of the political arena by putting a structure into place for periodic review as well as adding continuity to the review process.

CHAIRMAN HARDING agreed with Senator Weldon regarding on-going reform being a function of a Task Force as an even better method to accomplish government reform.

SEN. FOSTER agreed with Senator Brooke's comments, but stated the situation in Missoula is different than his own as well as Senator Hargrove's. **SEN. FOSTER** said when voters see "review of government" on the ballot, it seems like a good idea, but when the issue passes, nobody wants to be involved. **SEN. FOSTER** stated he questions the trigger mechanisms listed in Section 16, and he believes it is the responsibility of the Governor and the Legislature to identify and correct problems.

Vote: The MOTION FAILED 4-4 on roll call vote.

Motion/Vote: **SEN. FOSTER** moved that SB188 BE TABLED.
The MOTION CARRIED 5-3 on roll call vote.

EXECUTIVE ACTION ON HB91

Motion: **SEN. FOSTER** moved that HB91 BE CONCURRED IN and
SEN. FOSTER moved TO AMEND HB91.

Discussion: **SEN. FOSTER** handed out amendments to HB91 (EXHIBIT 2) and explained that his amendments would fix SB91 so it works in the real world. **SEN. FOSTER** explained that the first and second amendments clarify, in the title, what HB91 does. The third amendment allows 48 hours for reporting contributions of \$100 or more, and amendment 4 eliminates reporting by telephone.

SEN. COLE asked Senator Foster to clarify that telephone reporting is being eliminated and mail reporting is included.

SEN. FOSTER answered "yes."

SEN. BROOKE asked if a report is submitted by fax, should the original report then be mailed in. **SEN. BROOKE** stated she had had some experience with faxed documents versus original

documents regarding real estate. **SEN. MESAROS** asked Senator Brooke to explain the difference between receiving a fax and receiving the original of the report. **SEN. BROOKE** stated it is simply a matter of the original document having more credibility, and it is the document that should be on file.

SEN. BOB PIPINICH asked Senator Brooke if there were fraud issues involved that prompted her question. **SEN. BROOKE** stated no, it had to do with facilitating real estate transactions and the way in which those transactions are recorded at the County Court House.

CHAIRMAN HARDING explained that, as a former Clerk and Recorder, she is aware in the case of real estate transactions, the original document is needed.

SEN. WELDON added that in legal practice regarding rules of evidence, there exists a "best evidence" rule, and the "best evidence" rule states the original document is the best evidence of what the document says. **SEN. WELDON** stated, however, in the instance of this reporting of contributions, a fax would ultimately serve the same function as an original.

SEN. HARGROVE added that the information on these supplemental reports would also be included in a final report which ensures another check in this process.

Vote: The MOTION CARRIED UNANIMOUSLY on oral vote TO ACCEPT AMENDMENTS TO HB91.

Motion: **SEN. FOSTER** moved that HB91 BE CONCURRED IN AS AMENDED.

Discussion: **SEN. WELDON** stated he is opposed to HB91 because he believes the majority of Montanans receive daily mail.

SEN. WELDON gave an example of how HB91 would preclude any reporting of campaign financing activity on the Saturday or Monday prior to an election.

SEN. COLE stated he would have preferred to allow 72 hours for reporting, but does not feel the 48-hour rule will make much difference in many of the races.

SEN. MESAROS believes there is a vast majority of Montana that is very rural, but HB91 is fair and appropriate when considering the entire state.

SEN. PIPINICH stated that in his area, mail is delivered three times a week, and in these rural situations, he does not feel the difference between 24 and 48 hours is significant. **SEN. PIPINICH** agreed that the crucial time for watching the amount of money

received for campaigns is towards the end, but the contributions that come in won't be over \$100.

SEN. HARGROVE said he believes the clock should start when the money is put into the bank, not just the fact that the money is out in a rural mailbox someplace. **SEN. HARGROVE** added that there was nobody willing, including Commissioner Argenbright, to state when the clock started.

SEN. BROOKE added that there are no guidelines as to what happens if this law is violated.

Vote: The **MOTION CARRIED 6-1** on oral vote with Senator Weldon voting no.

EXECUTIVE ACTION ON SB89

Motion: **SEN. BROOKE** moved that **SB89 DO PASS**.

Discussion: **SEN. BROOKE** pointed out that the fiscal note was not signed by Senator Doherty. **SEN. BROOKE** said there is a lot of debate regarding the additional work SB89 will create at the Office of the Commissioner of Political Practices, but she believes the work created by SB89 can be carried out without too much additional staff.

SEN. MESAROS agreed there may be some question as to the accuracy of the figures in the fiscal note for SB89. **SEN. MESAROS** said he views SB89 as requiring a good deal of extra work of the Office of the Commissioner of Political Practices. **SEN. MESAROS** said this workload and the costs should not be added based solely on the complaints of two of Senator Doherty's constituents.

SEN. HARGROVE stated he believes the system as it exists now works fairly well in Montana, and he does not believe SB89 is necessary.

SEN. PIPINICH stated this same bill came up in the last legislative session. It was decided it would be too cumbersome to require registration in each county, and the bill was killed by the State Administration Committee. **SEN. PIPINICH** stated he hoped the Committee would kill SB89.

Vote: The **MOTION FAILED 6-2** on roll call vote.

Motion/Vote: **SEN. MESAROS** moved that **SB89 BE TABLED**.

The **MOTION CARRIED 6-2** with the committee agreeing to reverse the vote from the previous motion.

EXECUTIVE ACTION ON SB94

Discussion: David Niss handed out amendments to SB94 (**EXHIBIT 3**). Mr. Niss explained that amendments 1 and 2 clarify the title of SB94. Amendment 3 amends 13-10-211 regarding the way a candidate files for candidacy, and the remaining amendments tie in Section 2 and Section 3 of the bill to 13-10-211.

CHAIRMAN HARDING asked for clarification that a candidate must file to run the same way they are registered to vote.

COMMITTEE MEMBERS agreed that is not true.

SEN. MESAROS asked Mr. Niss to clarify a derivative and a diminutive of a name. Mr. Niss explained that a derivative refers to a shortened version of a name, such as Dave is a derivative of David. A diminutive is a word (according to Webster's dictionary) when used to refer to a name of a person, it is indicating a small, almost like a child-type name such as Jackie in place of Jack, or Kenny, in place of Ken, for example.

SEN. WELDON asked that Mr. Niss' explanation be recorded in the meeting minutes to illustrate the Committee's intent regarding derivatives and diminutives.

SEN. FOSTER stated he found a problem with amendment 3 which may require SB94 be tabled. The amendment states a candidate must file using their first and last names, but in "iii" the word "and" is included which would require the candidate to file listing all of the described possibilities.

SEN. BROOKE stated she was concerned by the same issue Senator Foster explained regarding the word "and" in amendment 3, "iii." **SEN. BROOKE** asked if requiring all possibilities to be filed was the intent of the amendment writer. **SEN. BROOKE** also asked if the word "and" could be replaced with the word "or."

Mr. Niss stated he had meant to have the words "if any" included in amendment 3 "ii" following "initials." This would provide that a candidate does not have to register under all four possibilities if he only uses his proper first and last name. However, if the candidate does use a diminutive, derivative, nickname, or initials and the write-in ballot is only cast for him in his proper name, that vote may not be counted. The intent was to cast the amendment language so it is the choice of the candidate which possibilities to include when filing.

SEN. BROOKE stated that while the language may seem cumbersome, she would suppose the person who accepts the candidate's filing would explain the possibility that votes may not be counted unless the appropriate forms of their name are included.

SEN. COLE asked Mr. Niss to clarify that adding "if any" after "initials" in amendment 3 - ii would resolve the problem. **Mr. Niss** said that was his intention.

SEN. WELDON stated he felt the language would be appropriate with the "if any."

Mr. Niss stated that while the structure of this language may appear awkward, it would otherwise be impossible to interpret.

SEN. WELDON clarified that a candidate could file using the guideline in "i", and not use any of the guidelines in "ii", "iii," or "iv."

CHAIRMAN HARDING commented that final counting of ballots would be determined by the way the candidate has filed. **SEN. WELDON** said that is correct, and this would have satisfied the problem Senator Nelson related regarding the "Marsh" votes.

Motion/Vote: **SEN. BROOKE** moved TO ACCEPT AMENDMENTS TO SB94 (inserting "if any" after *initials* in amendment number 3, section ii). The MOTION CARRIED UNANIMOUSLY on oral vote.

Motion/Vote: **SEN. BROOKE** moved that SB94 DO PASS AS AMENDED. The MOTION CARRIED 6-2 on roll call vote.

DISCUSSION ON SB120

Mr. Niss briefly explained some of the discussion regarding amendments to SB120. **CHAIRMAN HARDING** stated the Committee will hold SB120 until the amendments are completed.

ADJOURNMENT

Adjournment: 11:30 AM



ETHEL M. HARDING, Chairman



GAIL MOSER, Secretary

EMH/gem

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE _____

WED 01-25-95

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 91 (third reading copy -- blue), respectfully report that HB 91 be amended as follows and as so amended be concurred in.

Signed: Ethel M. Harding
Senator Ethel M. Harding, Chair

That such amendments read:

1. Title, line 4.

Strike: "REVISING THE METHOD BY"

Insert: "EXTENDING THE TIME IN"

2. Title, line 6.

Following: second "HOURS"

Insert: "FROM 24 HOURS TO 48 HOURS; ALLOWING REPORTS TO BE FILED
BY MAIL OR BY ELECTRONIC COMMUNICATION"

3. Page 2, line 8.

Strike: "24"

Insert: "48"

4. Page 2, line 10.

Strike: "TELEPHONE OR"

Insert: "mail or by"

-END-

PV
ST

Amd. Coord.
Sec. of Senate

FOSTER
Senator Carrying Bill

211342SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration SB 105 (first reading copy -- white), respectfully report that SB 105 be amended as follows and as so amended do pass.

Signed: Ethel M. Harding
Senator Ethel M. Harding, Chair

That such amendments read:

1. Title, line 5.

Strike: "A MEMBER"

Insert: "ONE-HALF OF THE MEMBERS"

2. Page 2, line 20.

Strike: "a member"

Insert: "one-half of the members"

Strike: "notifies"

Insert: "notify the committee presiding officer that those members object to a notice of proposed rulemaking, the committee shall notify"

3. Page 2, line 21.

Strike: "member"

Insert: "committee"

Strike: "request the committee to"

Strike: "a"

Insert: "the next"

4. Page 2, line 22.

Strike: "1"

Insert: ". Following notice by the committee to the agency,"

5. Page 2, line 25.

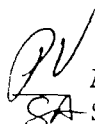
Strike: "member's"

Insert: "committee's"

Strike: "sent by the member to committee staff for filing in the"

Insert: "included in the"

-END-

 Amd. Coord.
SA Sec. of Senate

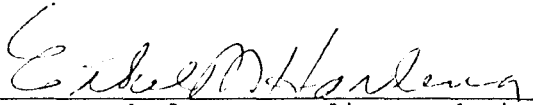
211351SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 25, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration SB 94 (first reading copy -- white), respectfully report that SB 94 be amended as follows and as so amended do pass.

Signed: 
Senator Ethel M. Harding, Chair

That such amendments read:

1. Title, line 6.

Strike: "A NICKNAME OR INITIALS"

Insert: "THE CANDIDATE'S FIRST AND LAST NAMES AND ANY NICKNAME, INITIALS, OR DERIVATIVE OR DIMINUTIVE USED IN PLACE OF A FIRST NAME OR FIRST AND MIDDLE NAMES"

2. Title, line 7.

Strike: "THAT SUFFICIENTLY IDENTIFIES AN INDIVIDUAL"

Insert: "ONLY IF THE VOTE IDENTIFIES THE CANDIDATE BY ANY OF THE PREVIOUSLY FILED NAMES"

3. Page 1, line 19.

Following: "(a)"

Strike: "the candidate's name, including a nickname or initials"

Insert: "(i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name.

4. Page 2, line 16.

Strike: "must"

Insert: "may"


Following: "counted"


Insert: "only"

Strike: "sufficiently"

Strike: "L"

5. Page 2, line 17.

 Amd. Coord.

 Sec. of Senate

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Strike: "including identification by a nickname or initials
instead of a first name"

Insert: "by any of the designations filed pursuant to 13-10-
211(1)(a)(i) through (1)(a)(iv)"

6. Page 2, line 25.

Strike: "must"

Insert: "may"

Following: "counted"

Insert: "only"

Strike: "sufficiently"

7. Page 2, line 26.

Following: "13-10-211(1)(a)"

Insert: "(i) through (1)(a)(iv)"

-END-

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE WED 11-25-95 BILL NO. SB188 NUMBER _____

MOTION:

SEN WELDON Moved SB188 DO PASS

NAME	AYE	NO
VIVIAN BROOKE	✓	
MACK COLE		✓
MIKE FOSTER		✓
DON HARGROVE		✓
BOB PIPINICH	✓	
JEFF WELDON	✓	
KEN MESAROS, VICE CHAIRMAN		✓
ETHEL HARDING, CHAIRMAN	✓	

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE 01-25-95 BILL NO. 83188 NUMBER

MOTION:

SEN FOSTER MOVED SB 168 BE TABLED

[illegible]

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE 10-25-95 BILL NO. SB 89 NUMBER _____

MOTION:

Sea Brooke Nov 29 1889 Do Pass

[illegible]

STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE 01-25-95 BILL NO. SB89 NUMBER _____

MOTION:

SEN MESSERS MOVE S7389 BE TABLED

[illegible]

SEN:1995
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MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE 1 MAR 01-2595 BILL NO. 5394 NUMBER

MOTION:

SEN BROOKS MOVES S. 394 DO PASS AS AMENDED

[illegible]

Amendments to Senate Bill No. 105
First Reading Copy

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 8-25-95

BILL NO. SB105

Requested by Sen. Weldon
For the Committee on State Administration

Prepared by David S. Niss
January 24, 1995

1. Title, line 5.

Strike: "A MEMBER"

Insert: "ONE-HALF OF THE MEMBERS"

2. Page 2, line 20.

Strike: "a member"

Insert: "one-half of the members"

Strike: "notifies"

Insert: "notify the committee presiding officer that those
members object to a notice of proposed rulemaking, the
committee shall notify"

3. Page 2, line 21.

Strike: "member"

Insert: "committee"

Strike: "request the committee to"

Strike: "a"

Insert: "the next"

4. Page 2, line 22.

Strike: "1"

Insert: ". Following notice by the committee to the agency,"

5. Page 2, line 25.

Strike: "member's"

Insert: "committee's"

Strike: "sent by the member to committee staff for filing in the"

Insert: "included in the"

Amendments to House Bill No. 91
Third Reading Copy

Requested by Sen. Foster
For the Committee on State Administration

Prepared by David S. NISS
January 24, 1995

1. Title, line 4.

Strike: "REVISING THE METHOD BY"

Insert: "EXTENDING THE TIME IN"

2. Title, line 6.

Following: second "HOURS"

Insert: "FROM 24 HOURS TO 48 HOURS; ALLOWING REPORTS TO BE FILED
BY MAIL OR BY ELECTRONIC COMMUNICATION"

3. Page 2, line 8.

Strike: "24"

Insert: "48"

4. Page 2, line 10.

Strike: "TELEPHONE OR"

Insert: "mail or by"

Amendments to Senate Bill No. 94
First Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
January 24, 1995

1. Title, line 6.

Strike: "A NICKNAME OR INITIALS"

Insert: "THE CANDIDATE'S FIRST AND LAST NAMES AND ANY NICKNAME,
INITIALS, OR DERIVATIVE OR DIMINUTIVE USED IN PLACE OF A
FIRST NAME OR FIRST AND MIDDLE NAMES"

2. Title, line 7.

Strike: "THAT SUFFICIENTLY IDENTIFIES AN INDIVIDUAL"

Insert: "ONLY IF THE VOTE IDENTIFIES THE CANDIDATE BY ANY OF THE
PREVIOUSLY FILED NAMES"

3. Page 1, line 19.

Following: "(a)"

Strike: "the candidate's name, ~~including~~ a nickname or initials"

Insert: "(i) the candidate's first and last names;

(ii) the candidate's initials used instead of a first name,
or first and middle name, and the candidate's last name;(iii) the candidate's nickname, if any, used instead of a
first name, and the candidate's last name; and(iv) a derivative or diminutive name, if any, used instead
of a first name, and the candidate's last name.

4. Page 2, line 16.

Strike: "must"

Insert: "may"

Following: "counted"

Insert: "only"

Strike: "sufficiently"

Strike: "1"

5. Page 2, line 17.

Strike: "including identification by a nickname or initials
instead of a first name"Insert: "by any of the designations filed pursuant to 13-10-
211(1)(a)(i) through (1)(a)(iv)"

6. Page 2, line 25.

Strike: "must"

Insert: "may"

Following: "counted"

Insert: "only"
Strike: "sufficiently"

7. Page 2, line 26.
Following: "13-10-211(1)(a)"
Insert: "(i) through (1)(a)(iv)"