MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ETHEL HARDING**, on March 8, 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)

Members Excused: Sen. Jeff Weldon (D)

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: HB 362, HB 376, HB 467
Executive Action: HB 404 BE CONCURRED IN

{Tape: 1; Side: A; Approx. Counter: 54.2}

HEARING ON HB 362

Opening Statement by Sponsor:

REP. ROSE FORBES, House District 42, Great Falls, said HB 362 is on behalf of Montana taxpayers to clarify restrictions in current law concerning public funds, time, equipment, and supplies used to support or oppose any political activity. She believes there is a strong perception that too much public money is being used to influence decisions made at the polls.

Proponents' Testimony:

Gary Marbut, President of the Montana Shooting Sports Association, also representing Gun Owner's of America, Citizen's Committee for the Right to Keep and Bear Arms, Western Montana Fish & Game Association, and the Big Sky Practical Shooting Club, said all of these organizations endorse HB 362. He described a situation where he filed a lawsuit in order to restrain public employees from using public resources to campaign against a ballot issue (CI 27). He was also involved in litigation regarding the election being unfairly obtained. He said he prevailed in district court. He believes Montana law is silent on this issue and other states are not. He believes Montana law needs to clarify that public resources may not be used to support of oppose election issues. **Mr. Marbut** described various instances regarding schools and the Department of Fish, Wildlife, & Parks using public resources to oppose issues. After the Hearing on HB 362, Mr. Marbut gave the secretary **EXHIBIT 1** regarding legal issues surrounding use of public resources to affect ballot issues.

Debbie Smith, Common Cause, said they support overall ethics reform on the regulation of public and elected officials in Montana government. They believe HB 362 should pass out of this Committee and be referred to the Ethics Select Committee to be coordinated with other issues being dealt with by that committee.

Opponents' Testimony:

Eric Feaver, Montana Education Association, said even though he rises as an opponent, he would support immediately moving this bill to the Ethics Select Committee. He does not believe HB 362 will resolve any disputes that have already arisen over allegations of misuse of public resources. He thinks it will only invite more allegations of that nature.

Questions From Committee Members and Responses:

SEN. DON HARGROVE asked Eric Feaver to specifically identify the part(s) of HB 362 to which he is opposed. **Mr. Feaver** said some of the examples used by Gary Marbut are precisely the kinds of issues that Mr. Feaver does not feel will be addressed by HB 362. He said the bill does not make a clear distinction between what is an *actual* and what is an *alleged* violation.

SEN. VIVIAN BROOKE asked Ed Argenbright, the Commissioner of Political Practices, if HB 362 will require that his office have any additional FTE. **Mr. Argenbright** said that filing of the disclosure statement will add additional work, but he has not calculated the actual needs of his office related to this bill.

SEN. KEN MESAROS commented that he would concur in the recommendation to refer HB 362 to the Select Committee on Ethics.

CHAIRMAN HARDING asked Senator Mesaros if he was making a motion that the Committee vote on the bill. She said the process would be that HB 362 would have to be taken to the floor and then transferred to the Committee on Ethics.

SEN. FOSTER said he believed it only requires a motion under order of business #6 that moves HB 362 to the Ethics Committee without this State Administration Committee taking any action.

Closing by Sponsor:

REP. FORBES said incidents related in testimony in the House hearing on HB 362 would not have been considered "frivolous" or "presumed," as stated by Eric Feaver. She added that the issues are not just related to *schools*. She said this is also not a partisan issue, it has to do with taxpayer money and how that money is used.

HEARING ON HB 376

Opening Statement by Sponsor:

REP. DICK SIMPKINS, House District 49, Great Falls, said HB 376 will make English the official and primary language of Montana government. He said this is not an "English-only" bill. The bill is simple and was designed by Montana, not by outside organizations. He explained the bill states that English is the official and primary language of the state and local governments, government officers and employees acting in their course of duties, government documents and records - and extra sections have been added to clarify the intent - that a state statute, local government ordinance or policy may not require a specific foreign language to be used by government officers or employees acting in the course and scope of their employment or for government documents or records or require specific foreign language to be taught in a school as a student's primary language. He also referred to the section which states it "is not intended to prohibit 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.
REP. SIMPKINS distributed **EXHIBIT 2, 3, and 4**, and commented briefly on some of the statements in the Exhibits. He believes that English will bring people together rather than separate them.

Proponents' Testimony:

Everett Lynn, citizen, Helena, submitted written testimony which he essentially read verbatim **(EXHIBIT 5)** and he also handed out **(EXHIBIT 6)**.

Arlette Randash, Eagle Forum, said they support HB 376 because it is a common-sense, budget-conscious necessity. Even though Montana does not feel the impact of multiple languages as other states do, she agreed with Representative Simpkins that we should do this now, rather than doing it as a "reaction." She related some personal history that emphasized her appreciation for English and how important it is to be able to communicate in a common language.

{Tape: 1; Side: B; Approx. Counter: 52.9}

Opponents' Testimony:

The secretary was given **EXHIBIT 7** which includes letters and signed petitions stating opposition to HB 376.

Christine Kaufmann, Director of the Montana Human Rights Network, handed out her written testimony which she essentially read verbatim **(EXHIBIT 8)** and it also included letters from various opponents.

Long Standing Bear Chief, Blackfoot Indian, has concluded that HB 376 is frivolous and evil in its intent as it seeks to divide people. He said he has relatives in Canada and they speak many different languages, but they have no difficulty in communicating with each other and none of them complain about the English and French documents. He discussed the spiritual value of language and that his people have been denied the right to speak language other than English in their schools. He said HB 376 has no spiritual qualities.

Helen Christensen, Montana AFL-CIO, said she believes HB 376 is unnecessary as English is already used, without demand. She said that approval of HB 376 would be disrespectful to original Americans whose ancient languages have been spoken on the very site where this legislature now sits.

Scott Criton, Executive Director of the American Civil Liberties Union, said the United States has always been a nation of many languages. He described attempts made in the past to standardize a language in this country, all of which have failed. He said this legislation could also create considerable costs to the state in legal fees to defend it. He said Montana has always drawn from its diversity, and he doesn't believe HB 376 encourages people to come to Montana.

Wade Sikorski, citizen, said he believes it is cruel to consider Native American languages as "foreign languages."

Questions From Committee Members and Responses:

SEN. HARGROVE asked Christine Kaufmann if sign language is in specific languages. **Ms. Kaufmann** said she believes it is its own discreet language. **Lynn Hench, OPI,** said sign language is its own language which uses unique symbols. In many ways, it relies on English, but is its own language.

SEN. BROOKE commented to Arlette Randash that Ms. Randash was probably the primary proponent of SB 292 which contains requirements to publish documents of information regarding the effects of abortion and other childbirth issues. **SEN. BROOKE** said there are large populations of Hmongs, Russians, and others in the University system who may not be well versed in English and who may wish to receive the services available. **Ms. Randash** said it doesn't matter how much you try to meet the needs of everyone, it cannot be done in every possible situation. She said if she were a provider of that type of service, she would try to meet the needs of those people.

SEN. BROOKE said SB 292 ordered the Department of Health to provide the materials, and she asked Arlette Randash if she is implying that providers should translate those materials for people who need that information. **Ms. Randash** said she would have to look into the issue further as she is not prepared to answer Senator Brooke's questions. **SEN. BROOKE** said she believes Ms. Randash's testimony today on HB 376 is in direct conflict with the strong testimony she gave as a proponent of SB 292. **Ms. Randash** said that Representative Simpkins just pointed out to her that page 1, lines 24 and 25 state "this section does not prohibit a government office or an employee acting in the course and scope of employment from using a language other than English." She said she believes the employees of health facilities or the Department of Health and Environmental Sciences, if called upon, would endeavor to meet the needs of various people.

SEN. BROOKE asked Arlette Randash if we are to, then, rely on the *good will* of offices or employees to provide information rather than having it *specified* in either SB 292 or HB 376. **Ms. Randash** said she believes the scope of this discussion is very narrow and not pertinent to the issues Representative Simpkins is trying to address in HB 376. She said she would be glad to discuss it further with Senator Brooke as it is not central to this issue.

Closing by Sponsor:

REP. SIMPKINS clarified that HB 376 does not prohibit use of other languages in printed documents or in general education. He said HB 376 is simply preemptive legislation to state English is the primary language. He said it sets a standard for a common language while encouraging proficiency in languages other than English. He handed out and discussed information regarding a telephone survey conducted by The Terrance Group **(EXHIBIT 9)**. **REP. SIMPKINS** stated the letters the Committee received as testimony against HB 376 were *not* on tribal government stationary. He said HB 376 promotes unity and will ensure clear understanding between all people.

CHAIRMAN HARDING closed the Hearing on HB 376.

HEARING ON HB 467

Opening Statement by Sponsor:

REP. DICK GREEN, House District 61, Victor, said HB 467 will implement term limits for those elected to the Public Service Commission in line with other elected positions. Currently laws limit a person to eight years out of sixteen in both houses of the legislature, and there are other limitations for other elected offices.

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. COLE asked Representative Green if the current terms are staggered terms for the Public Service Commission. **REP. GREEN** said he didn't believe there are any limits. (Somebody else answered yes to Senator Cole's question.)

SEN. BROOKE asked Representative Green to clarify the purpose for having limits for the Public Service Commission. **REP. GREEN** said there were requests to have limits placed on this Commission as for other elected positions in the state.

SEN. BROOKE asked Representative Green if there is a specific problem that HB 467 will fix. **REP. GREEN** said there is not a problem to his knowledge, but it was simply requested in order to bring it in line with other elected positions in the state.

SEN. BROOKE asked who requested the bill. **REP. GREEN** said the leadership in the House asked him to carry the bill.

CHAIRMAN HARDING closed the Hearing on HB 467.

EXECUTIVE ACTION ON HB 89

Motion: **SEN. BROOKE** moved that **HB 89 BE CONCURRED IN.**

Discussion: **David Niss** handed out amendments to HB 89 **(EXHIBIT 10)** and explained there were some coordination issues with SB 150.

Motion: **SEN. BROOKE WITHDREW HER MOTION** so the amendments could be reviewed by Committee members.

EXECUTIVE ACTION ON HB 404

Motion/Vote: **SEN. COLE** moved that **HB 404 BE CONCURRED IN.** The **MOTION CARRIED UNANIMOUSLY** on oral vote.
SEN. WELDON will carry the bill on the Senate floor.

ADJOURNMENT

Adjournment: 11:50 AM

ETHEL M. HARDING, Chairman

GAIL MOSER, Secretary

EMH/gem

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE Wed 3-8-95

NAME	PRESENT	ABSENT	EXCUSED
VIVIAN BROOKE	✓		
MACK COLE	✓		
MIKE FOSTER	✓		
DON HARGROVE	✓		
BOB PIPINICH	✓		
JEFF WELDON			✓
KEN MESAROS, VICE CHAIRMAN	✓		
ETHEL HARDING, CHAIRMAN	✓		

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SENATE STANDING COMMITTEE REPORT

March 8, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 404 (third reading copy -- blue), respectfully report that HB 404 be concurred in.

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

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

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

LEGAL ISSUES SURROUNDING USE OF PUBLIC RESOURCES TO AFFECT BALLOT ISSUES

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 HIS 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 ... 1978 contains, as Amendment No. 2, a proposal to amend the Colorado Constitution in a manner which would affect the authority of all levels of representative government in Colorado to spend public funds. ... placed on the ballot by voters' petition ... exercise of the power of initiative, ... Article V, Section 1 of the Constitution of Colorado.

"At an official meeting ... Board of Education ... School District No. 1 ... adopted Resolution ... officially opposing Amendment No. 2 and urging its defeat. ... the Board gave specific approval to the following actions:

"The use of so much School District equipment, materials, supplies, facilities, funds and employees necessary to: 1. Distribute campaign literature to School District employees, and the parents of children of the schools."

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 Stanson 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; Elsenau 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)

"Underlying this uniform judicial reluctance to sanction the use of public funds for election campaigns rests and implicit recognition that such expenditures raise potentially serious constitutional questions. A fundamental precept of this nation's democratic electoral process is that the government may not 'take

sides' in election contests or bestow an unfair advantage on one of several competing factions."

"In Reaching that result, the California Supreme court cited, with approval, Citizens to Protect Public Funds v. Board of Education, 13 N.J. 172, 98 A.2d 673 (1953). In that case, Justice (now United States Supreme Court Justice) Brennan, writing for the New Jersey Supreme Court, determined that a school board had an implied power to make reasonable expenditures for the purpose of giving voters relevant information about a school bond issue, but said:

"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 (9S A.2d 673)

CITIZENS TO PROTECT PUBLIC FUNDS et al. v. BOARD OF PUBLIC EDUCATION OF PARSIPPANY - TROY HILLS TP., 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 HE 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 ELSENAU 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

EXHIBIT 1
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to all competing factions U.S.C.A.Const.Amend.1." (from Headnotes)

IN THIS DECISION OF THE SUPREME COURT OF CALIFORNIA, JUSTICE TOBRINER 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 then (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 TOBRINER 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 TOBRINER 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 TOBRINER 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. ARAPHOE 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 MATSCH. IN HIS OPINION AND ORDER, JUDGE MATSCH 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 MATSCH 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 MATSCH TALKS ABOUT CONSTRUING THE INVOLVED COLORADC

STATUE, WHICH IS SIMILAR IN INTENT TO MONTANA'S M.C.A. 13-35-226(3), AND HE 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. & 1343 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 statues 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."

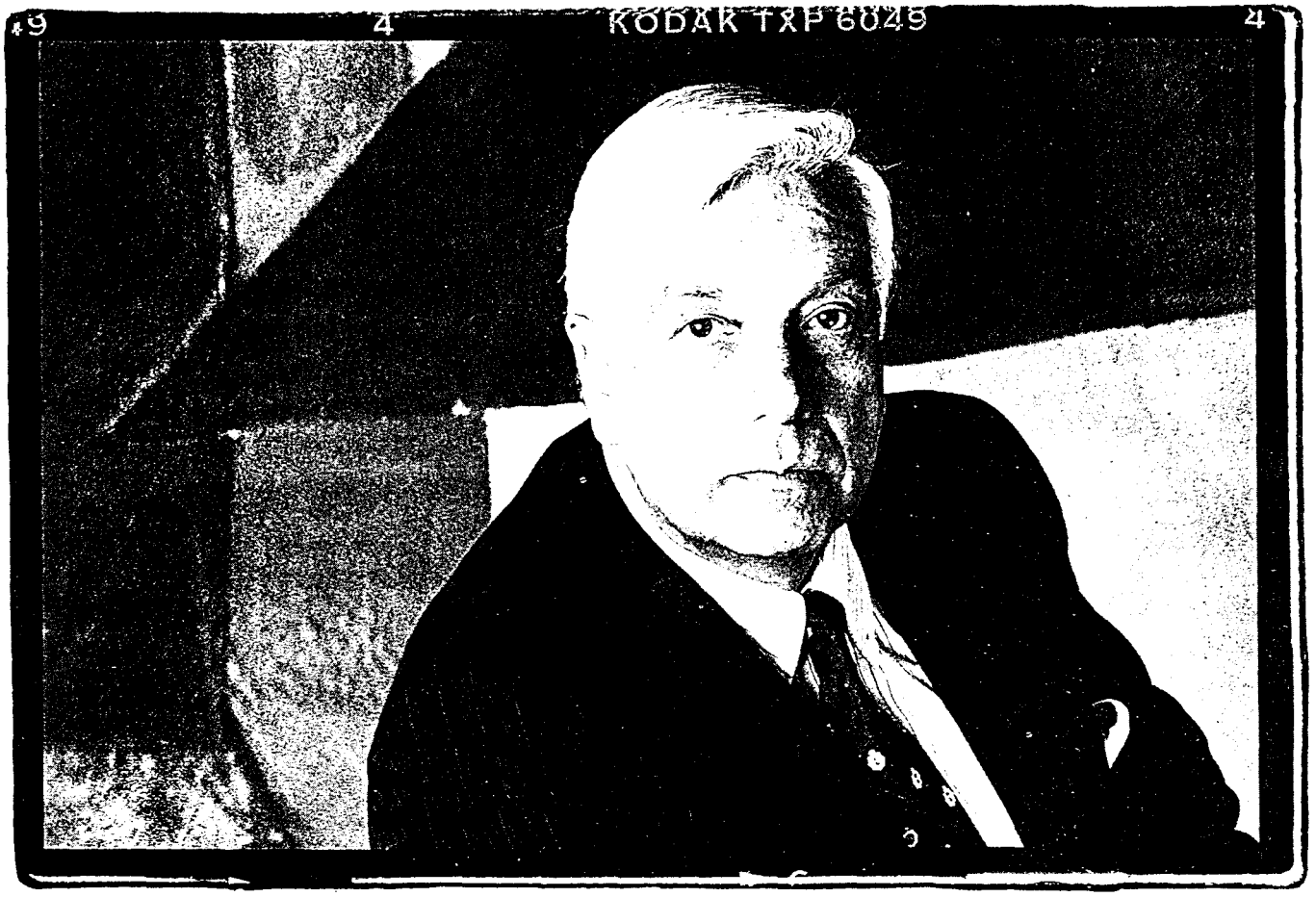
THIS, HOWEVER, WAS NOT THE LAST OF CAMPBELL v. ARAPHOE. THE DEFENDANTS APPEALED THE DECISION OF THE DISTRICT TO THE UNITED STATES COURT OF APPEALS, 10TH CIRCUIT, WHERE THAT COURT CONCURRED WITH, AND UPHELD, THE DECISION OF THE DISTRICT COURT ON APRIL 8, 1983. 704 F.2d 501 (1983).

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)."

EXHIBIT 1
DATE 3-8-95
HB 362

"Why A Hispanic Heads An Organization Called U.S.English."



Mauro E. Mujica, AIA – Architect
Chairman/CEO, U.S.English

"I am proud of my heritage. Yet when I emigrated to the United States from Chile in 1965 to study architecture at Columbia University, I knew that to succeed I would have to adopt the language of my new home.

"As in the past, it is critical today for new immigrants to learn English as quickly as possible. And that's so they can benefit from the many economic opportunities that this land has to offer. I believe so much in this concept that when elected to head an organization that promotes the use of English, I eagerly accepted.

"U.S.ENGLISH is a national, non-partisan, non-profit organization committed to making sure every single immigrant has the chance to learn English.

"Our mission is the preservation of our common bond through our common language: English. We are dedicated to making it the official language of all levels of government, of course, exempting such activities as emergency services and foreign language teaching. With our help, today 19 states have passed laws declaring English their official language. In the courts we have won a number of key federal and state language cases. On the job and in the schools we're supporting projects that will ensure that all Americans have the chance to learn the language of equal opportunity."

To make a contribution or to find out more information, call our toll-free number 1-800-787-8216. Or write: U.S.ENGLISH, 818 Connecticut Avenue, NW, Suite 200, Washington, D.C. 20006.

U.S.ENGLISH

THE LANGUAGE OF EQUAL OPPORTUNITY℠

Congress and Clinton will avoid a showdown on the crime bill. Clinton is threatening to veto a House version, which seeks to replace a requirement in last year's bill to use over $8 billion to hire police. House wants to give money to local gov'ts in the form of block grants to be spent as they see fit to reduce crime and improve public safety.

Senate will modify the measure, sticking with the block grants but earmarking enough for police hiring to ease White House concerns.

A sequel to the Contract With America? It's being considered... many members think that the first one is a hit, so why not try another.

Most GOP leaders are cool to the idea. After first 50 days, Gingrich, other top honchos privately acknowledge the current Contract won't be finished anytime soon, and some parts may never get finished. Announcing a new deal when the first isn't completed would backfire... opening the door for Democrats to have a field day at the GOP's expense.

Still a lot to do under the present Contract. Welfare overhaul, product-liability reform, capital-gains tax cuts and regulatory changes will spark big fights. Especially in the Senate, where even Republicans are quick to point out that they're not signatories to the Contract.

A bill to make English our official language won't go anywhere despite over 120 cosponsors in the House. Shedding multilingual rules now used in gov't functions could save an estimated $10 billion a year. But many members think voting for this bill would brand them as bigots.

Big battle coming on affirmative action...preferential treatment based on race, sex or national origin. California is kicking it off with a proposed ballot initiative that would end minority set-asides and other preferences by the state gov't. Will be on Nov. '96 ballot, putting presidential candidates on the spot to come up with solutions.

Most voters favor reforms to prevent abuses of the system... shift focus to helping poor people, regardless of race, sex or origin.

Supreme Court will decide these cases before quitting in July:

Voting districts for minorities. Is it constitutional for states to form irregularly shaped districts to combine voters of the same race?

Plant-closing notices. If an employer doesn't give proper notice of layoffs, do workers have only six months to file lawsuits for damages?

Damages for age-discrimination on the job. Are they tax free?

Punitive damages. Does an excessive award violate due process?

Auto emission inspection rules will be eased in coming weeks. EPA is running for cover from a barrage of brickbats thrown by motorists who see no need to wait in line and pay money to test late-model cars. Revised rules will exempt newer cars and ditch plans requiring states to open test sites when many gas stations are already equipped to test.

New limits for telemarketers soon. No more calls before 8 a.m. or after 9 p.m. Salespeople must identify themselves and their outfit right away. Can't call the same home more than once every three months. Also more power to state attorneys general to go after shady operators.

No change in antitrust rules for doctors who want more leverage to bargain with hospitals and HMOs and make it easier to merge practices. Some lawmakers, including Sen. Hatch, chairman of Senate Judiciary Com., favor letting doctors bargain together and set up their own networks. But hospitals, HMOs and even nurses are staunchly opposed to such a move.

THE KIPLINGER WASHINGTON LETTER

Circulated weekly to business clients since 1923—Vol. 72, No. 7

THE KIPLINGER WASHINGTON EDITORS
1729 H St., NW, Washington, DC 20006-3938

Dear Client: Washington, Feb. 17, 1995

Exports will turn in another solid performance this year... helping to offset the slowdown in consumer spending, housing, auto sales and other parts of the economy brought on by higher interest rates.

Shipments of goods and services will grow 8% over last year. Plenty of good markets and opportunities despite the peso devaluation in Mexico, trade friction with China and Japan's reluctance to open up.

Capital investment by foreigners is one of the main reasons. Established and emerging countries all around the globe are expanding and upgrading roads, airports, ports, rail and communications systems, and they're turning to U.S. technology and know-how to meet their needs. Means increased orders ahead for suppliers of construction machinery, telecommunications and computer equipment plus a number of other items.

Even Mexico will go ahead with privatizing railroads. In fact, collapse of the peso makes the privatization drive more urgent than ever. U.S. companies will get the work because our rail systems are compatible.

The weak dollar also helps exports, but it's a secondary factor.

Besides construction, export growth in many other lines: Banking. Insurance. Accounting. Consulting. Food-processing gear. Entertainment. Engineering. Mining hardware. Oil & gas equipment.

Auto exports will inch upward. Ford aims to sell 100,000 cars to the Japanese by 2000. Toyota, Nissan and Honda all export vehicles produced in U.S. plants. Note that Honda is now OUR No. 1 export car.

Also a huge appetite for western-style foods and convenience... red meat, snacks, wine & beer, fresh and processed fruits & vegetables. Demand for such foods figures to keep increasing by about 15% a year.

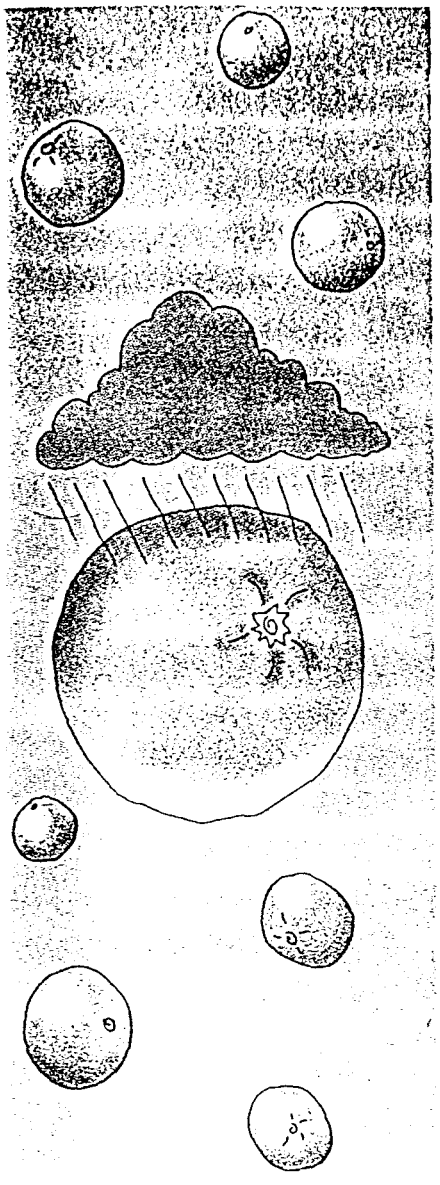
Trade war with China will be averted with a pledge from China to crack down on illegal pirating of compact discs, videos and software. Congress will renew most-favored-nation status for China this spring, but trade relations with China will continue to be rocky for some time.

U.S. negotiators will step up pressure on Japan to open markets to exports of autos and auto parts, electronics and many other items. No one's holding their breath on the chances for any major breakthroughs. A few openings for firms that can help with earthquake cleanup in Kobe. And some car sales. But no major cuts in our $66-billion trade deficit.

These markets look good now: Indonesia. Thailand. India. South Korea. South Africa. Germany and other western European nations. Also Poland. But the rest of eastern Europe, including Russia, is iffy.

Sales to Canada will soften some, but it's still our top market.

As for Mexico, it's wait until next year at the earliest. Our neighbor to the south had been our fastest-growing export customer, but except for the opportunities created by Mexico's drive to privatize, the 40% peso devaluation now makes many U.S. products too expensive.



ORANGE COUNTY PROBLEMS

The derivatives-based financial disaster in Orange County, Calif., has had unexpected reverberations in at least seven other Orange counties far from California, where confused investors and worried others are driving county officials crazy. *The Wall Street Journal* reports that, all combined, the other Orange counties have a population less than half of the 2.6 million in the one we know about, and they're a lot more conservative. Orange County, Ind., for example, invests only in CDs and Treasury bills, not even mutual funds. The other Orange counties are in New York, Texas, Florida, North Carolina, Vermont and Virginia. All are apparently fiscally sound.

SIGN OF THE TIMES?

Everybody knows that General Motors is the world's biggest car company. Fourteen years ago, it shipped more than 100,000 cars abroad from the United States. As of December 1994, America's biggest exporter of cars isn't itself very big, and it sure isn't American: Honda North America Inc. was the only automaker to ship more than 100,000 cars from the United States to foreign markets in 1994.

MICHIGAN REWRITES CHARTER SCHOOL LAW

After a court ruled Michigan's charter school legislation unconstitutional, the state Legislature rewrote the law in January to give the state board regulatory authority over those schools, and passed a special appropriations bill to fund eight of the schools through June. The funding will not be retroactive, however, so the charter schools still have financial problems.

"ENGLISH ONLY" OUT IN ARIZONA

A federal appeals court in San Francisco struck down an amendment to the Arizona Constitution that ordered government employees performing government business to speak and write only in English. In a 3-0 decision, the Ninth U.S. Circuit Court of Appeals ruled that the "official English" law, approved by Arizona voters in 1988, violates the First Amendment. The state does not plan to appeal the decision.

FEDS DON'T HAVE TO PAY FOR ALIENS

A federal district court in December threw out Florida's suit to recover nearly $1 billion from the federal government to pay for services to illegal immigrants. The judge agreed with the government's argument that the case presented "a political question" of the proper allocation of federal resources. He also said in his decision that not providing services could have a "potentially devastating" impact on the citizenry, but that the cost of providing the services "could cripple the state." About 345,000 illegal immigrants live in Florida, state officials say.

Illustrations by Mark Hicks

INDIAN GAMBLING IS NO EXCEPTION

A federal appeals court in San Francisco ruled that casinos on California Indian reservations can't operate slot machines or offer card games that are banned elsewhere in the state. The decision, which partially reversed a lower court decision of July 1993, was a blow to several Indian tribes who argued that a federal law required state officials to negotiate an agreement excluding them from certain state gaming guidelines.

UTAH AND GEORGIA TO GET FOG-ALERT SYSTEMS

Transportation departments in Georgia and Utah are developing the nation's first fully automated fog detection systems for certain sections of their highways. Utah's project is expected to be finished this summer, and Georgia's will be completed early in 1997. The projects, mostly financed by federal highway grants, will use commercially available optical fog sensors and speed-measuring devices. Electronic signs will alert motorists to the presence of murky conditions and advise them how fast (or slow) to drive—surely a lifesaver since most accidents in fog occur because of great variations in speed.

SENATE STATE ADMIN.
EXHIBIT NO. 5
DATE 03-08-95
BILL NO. HB376

SENATE HEARING HB 376
MARCH 8, 1995

MR. CHAIRMAN & COMMITTEE MEMBERS: MY NAME IS EVERETT L. LYNN AND I REPRESENT MYSELF.

WHY ONLY ONE OFFICIAL LANGUAGE FOR GOVERNMENT?

COST EFFICIENCY VS. MULTILINGUAL DOCUMENTS: AN INTERNATIONAL EXAMPLE WOULD BE INSTRUCTIVE FOR ANY STATE. CANADA BECAME OFFICIALLY BILINGUAL IN 1969. THE ESTIMATED 10 YEAR COST OF THE DUAL-LANGUAGE REQUIREMENT THERE IS $6.5 B FOR 2 LANGUAGES IN A COUNTRY WITH 1/10TH OUR POPULATION. ADMINISTERING TWO LANGUAGES ON A PER CAPITA BASIS IN THE U.S. COULD THEN COST $60 B IN 10 YEARS.BUT WITH 327 LANGUAGES SPOKEN HERE,WHICH WOULD GET PREFERENTIAL TREATMENT? BASED ON CANADIAN CALCULATIONS OFFICIAL MULTI-LINGUALISM COULD EASILY COST $10 B YEARLY DEPENDING ON THE NUMBER OF LANGUAGES. MONTANA WOULD PAY ITS SHARE.

NATIONALLY THE OPPONENTS OF THIS TYPE OF LEGISLATION SAY IT IS NO BIG DEAL TO PRODUCE SIGNS, FORMS, MANUALS, ETC. IN EVERY DIFFERENT LANGUAGE. NEITHER DID THE CANADIANS REALIZE THE CONSEQUENCES WHEN IT BEGAN. STATEWISE IT IS TIME FOR US TO REALIZE THAT 19 STATE WITH A TOTAL POPULATION OF OVER 110 MILLION HAVE SEEN THE VALUE OF AND PASSED ENGLISH LANGUAGE ONLY LEGISLATION FOR STATE GOVERNMENT. SOUTH DAKOTA HAS SUCH A BILL AWAITING THE GOVERNOR'S APPROVAL.

WHY ENGLISH AS THE LANGUAGE OF CHOICE FOR GOVERNMENT?

INTERNATIONAL CRITERIA. IT IS AN ESTABLISHED FACT THAT ENGLISH IS THE INTERNATIONAL LANGUAGE OF AVIATION, NAVIGATION, TECHNOLOGY, SCIENCE AND BUSINESS. 80% OF THE INFORMATION STORED IN THE WORLD'S COMPUTERS IS IN ENGLISH. ITS UNIVERSALITY AND BROAD ACCEPTANCE IS UNDISPUTED.

NATIONAL CRITERIA: WHAT IS THE ACCEPTANCE OF ENGLISH FOR USA RESIDENTS? POLLS ARE INFORMATIONAL:

USA WEEKEND CALL-IN POLL. OCTOBER 1993: READERS WERE ASKED:, "SHOULD CONGRESS DECLARE ENGLISH OUR OFFICIAL LANGUAGE?" 43,708 UNDUPLICATED PHONE CALLS (97%) SAID YES. 1,303 (3%) SAID NO.

YOU MIGHT ASK, "ARE THESE REPRESENTATIVE ANSWERS OF NATIONALITY CROSS SECTIONS?"

A 1990 HOUSTON CHRONICLE POLL REVEALED "THAT 87% OF HISPANICS - NATIVE BORN AND IMMIGRANT- BELIEVE IT 'THEIR DUTY TO LEARN ENGLISH,' AND A MAJORITY FAVORED MAKING ENGLISH THE OFFICIAL LANGUAGE OF THE COUNTRY".

ONE MAY QUESTION WHETHER THE VOCAL OPPONENTS OF THIS BILL ARE TRULY REPRESENTATIVE OF MINORITY OPINION. WHY NOT ACKNOWLEDGE PUBLIC OPINION AND "GO WITH THE FLOW"? I HOPE THAT IN CONSIDERING THIS BILL YOU DISMISS THE PERIPHERAL FEARS SUCH AS "HIDDEN AGENDA" AND "XENOPHOBIA" AS DON QUIXOTES TILTING WITH IMAGINARY WINDMILLS AND RECOGNIZE THE POSITIVE AGENDA. I URGE YOU TO VOTE "DO PASS".

READER REACTION

SENATE STATE ADMIN.
EXHIBIT NO. 6
DATE 03-08-95
BILL NO. HB376

'Yes' to English

Make it the USA's official language, says a huge majority of 47,000 call-in voters

CONGRESS SHOULD declare English the nation's official language, say 97 percent of the USA WEEKEND readers who responded to an Oct. 22-24 call-in.

The unscientific call-in accompanied a debate between Bradley O'Leary, who supports laws that would require the exclusive use of English for official purposes, such as voting, and Victor Kamber, who opposes such laws. The telephone lines received 45,011 unduplicated calls, and 2,022 readers voted by mail. Altogether, 97 percent sided with O'Leary, who pointed to Canadian society as a victim of misguided bilingualism.

The vote "confirms everything I believe," says Rep. Toby Roth, a Wisconsin Republican who has introduced an English-only bill in Congress. "I'm not surprised."

Kamber, who said the vote disappointed him, re-emphasized that English-only laws "would impede people from assimilating."

A sampling of the postcard vote:

■ Let's put this in perspective: If 50,000 English-speaking Americans moved to Mexico, demanding that that country no longer be Spanish-only, would the Mexican government accommodate them?
VIVIANNE NIELMELA
Salinas, Calif.

■ I have known kids of many cultures who couldn't read and write English. I've also seen their liberation after they learned English and joined mainstream U.S. life. Voting for English wouldn't shut people out; it would include them!
GEORGE GLEASON
Springfield, Mo.

■ No language should be forced on an individual. We should use diversity as an opportunity to learn other languages from people who actually speak them. The sooner O'Leary stops trying to create an English-only utopia, the sooner we can start with a language diversity plan. Otherwise, if he's hellbent on an English-only country, we'd be forced to get rid of deaf people. Surely, he doesn't consider sign language English.
LEESHA HEARD
Jackson, Miss.

■ I vote "yes" to English as the official language, for the same reason I'd vote "yes" to standardizing the language that runs computers, the electrical parts in our homes or the terms that allow scientists to understand one another in the global scientific community. I'm a Dutchman, by the way.
TONY DE VRIES
Houston

■ Why Congress would consider this vital is beyond me! Even English needs translation from one part of our nation to another. The New England accent is foreign to the Southern ear — and y'all know "they" can't understand us.
NORMA BOYD
Springfield, Tenn.

WE ASKED READERS: *Should Congress declare English our 'official language'?* Overall, of the readers who voted **97% said yes;** 3 percent, no. How the vote broke down:

UNDUPLICATED PHONE CALLS

YES ▶ 97% (43,708)	NO ▶ 3% (1,303)

POSTCARDS AND LETTERS

YES ▶ 99% (1,994)	NO ▶ 1% (23)

Fort Peck Community College
Box 398, Poplar, Montana 59255
Administration (406) 768-5551
Student Services (406) 768-5553
Fax (406) 768-5552

SENATE STATE ADMIN.
EXHIBIT NO. 7
DATE 03-08-95
BILL NO. HB376

February 7, 1995

TO: To Whom It May Concern

SUBJECT: House Bill 376
"An Act providing that English is the official and primary language of the State and Local Governments"

Having achieved the Year 1995 A.D., the State of Montana, her Citizens, and the United States of America are five years from the 21st Century. This past century has truly been a hallmark dedicated to the advancement of human kind. The 20th Century will be noted for such magnificent discoveries such as Flight, Space Flight, Television, Microwaves, Medical advancements such as the development of polio vaccine, the eradication of smallpox, and advanced surgical techniques.

Civil Rights Legislation by the U.S. Congress in the 1960s finally assured equality for all Americans. As we have marched towards being a global community, other bits of national legislation have been passed such as G.A.T.T. and N.A.F.T.A. These last pieces of legislation were passed to further lower borders and barriers to move us closer to being a global community.

Amidst all of the aforementioned advancements, when this American Express Card, VISA, MasterCard, and American Fiscal Currency is being accepted around the world as legal tender, the State of Montana, through the auspices of the Montana State Legislature, is in the act of taking a gigantic leap backwards towards a late 18th Century, early 19th Century Isolationist stance.

<u>English shall be the official and primary language of the (Montana) State and Local Governments.</u>

Just who do we think we are? Are we so conceited and shortsighted that we feel that we can hand cuff our society with a piece of "Law." If we have these types of feelings, another piece of legislation entitled: H.B. 377 should be passed. Under this H.B. Bill 377, a law should be passed wherein the State of Montana will state very equivocally the "Members of the Caucasian race who reside in Montana are truly "<u>White People</u>."

It shames us as Brother and Sister Montanans that our Brothers and Sisters are so frightened that they must resort to these types of tactics. With other types of problems such as the budget deficit, tax pay
farm, there being very
college graduates, and
name a few, it seems ri
English only law.

SENATE STATE ADMIN.
EXHIBIT NO. 8
DATE 03-08-95
BILL NO. HB376

TESTIMONY IN OPPOSITION TO HB 376

OFFERED BY: CHRISTINE KAUFMANN, HUMAN RIGHTS NETWORK

The Montana Human Rights Network is a private non-profit corporation, consisting of a statewide office and 12 local human rights groups. The staff answers to a board of directors from across the state and about 3,500 Montanans who support our mission with their dollars and their activism. We are not a part of the Human Rights Commission, the office of state government charged with enforcement of anti-discrimination laws.

Our mission is to help communities counter bigotry, hatred, and intolerance in across Montana, no matter who the targets are. We do this by helping local folks speak out against the intolerance and by celebrating the diversity among us. We stand in opposition to HB 376 because it sends a message of intolerance, whether it intends to or not. It sends a message that families who speak a different language, who love their differing cultural traditions are second-class citizens in Montana.

The sponsor has acknowledged that this effort is part of a national movement to declare English the official language across the country. This is not a bandwagon we should be proud to jump on. The movement is anti-immigrant and xenophobic at its core. It is fed by the notion that immigration is out-of-control, that foreigners are coming in to take away our quality of life, and that this nation belongs to white, English-speaking people. There is an arrogance to this movement that we should be embarrassed to participate in...especially in Montana, where our largest minority population was speaking their rich variety of languages for thousands of years before we arrived with our English.

Despite the sponsor's intent, and the attempts to amend this bill, the Indian community remains strongly opposed to this bill because of the message it sends that families who trying to recover their language and cultural traditions are second-class citizens in Montana.

Usually laws are passed to solve problems. Where is the problem? Have you ever had trouble reading government documents because they aren't in English? Why is the legislature wasting its time on a bill that solves a problem that doesn't exist...and at the same time sends a message to some residents and guests that they are not really one of us? I urge you not to send that message.

Consider the possible impacts of Subsection 2:

--If a police force wishes to assign a community officer to be a liaison to the Hispanic community, or hire a translator to inform a citizen of their rights, could the police force require that the employee speak Spanish?

--Could a school district require a German teacher to speak German?

--Could a social worker assigned to work with the Hmong community be required to speak the language of the people to be served?

--Could those state employees assigned to develop trade with Japan be required to speak Japanese?

--Could the school for the deaf and blind not teach sign languages as a primary language?

--Some bilingual programs are taught in the primary language of the students, because learning is faster. What does this bill do to such programs?

This bill does not allow government the flexibility it needs to serve all its tax-paying citizens. Vote "no" on HB 367.

MONTANA INDIAN EDUCATION ASSOCIATION

P.O. Box 1018
Browning, MT 59417

RESOLUTION

"The future of Indian people rests with the education of their young."

Whereas, American Indians are the largest minority group in Montana; and

Whereas, Article X, s 1, of the Montana Constitution guarantees equality of educational opportunity to each person in the state; and

Whereas, Article X, s 1 further recognizes the distinct and unique cultural heritage of the American Indians and expresses the State's commitment to preserving that cultural integrity and

Whereas, language is the basis of culture, the purpose and intent of this legislation is in direct opposition to the retention of Native languages; and

Whereas; direct conflict with the legislative intent of the Bilingual Education Act;

THEREFORE BE IT FURTHER RESOLVED that the Montana Indian Education Association is opposed the passage of House Bill #376: English the Official Language.

Respectfully submitted by the Montana Indian Education Board of Directors on behalf of the Montana Indian Education Association,

Theodora Weatherwax

February 6, 1995

Theodora Weatherwax

MIEA MINUTES.MIE

EXHIBIT 8
DATE 3-8-95
HB 376

House Administration Committee
Montana House of Representatives
State Capitol
Helena, MT

February 7, 1995

As a tribal member and speaker of the Crow tribal language, I would like to express my oppostion to House Bill #376.

Like many of the tribal members, the Crow language is my primary language; and therefore, my official language. Because I learned English as a seond language, it is my secondary language. I have always been proud to be bilingual in the State of Montana, but to make English the official and primary language of the state would insinuate that the Crow language is inferior to English.

Marlene Walking Bear

Marlene Walking Bear
Crow Agency, MT 59022

On behalf of the Montana Association of Bilingual Education, we would like to express our opposition to House Bill 376. The Montana Association of Bilingual Education was formed in 1980 to provide support for bilingual programs in Montana, representing students, teachers and parents on all seven reservations in Montana and Hmong and Russian populations in Missoula. The philosophy of the Montana Association of Bilingual Education is: **We believe that lnaguage is the most fundamnental factor in education and that learning in and about more than one language results in significant cognitive and affective benefits. Children whose lives are impacted by languages other than English should be provided an educational program that assures them those benefits.** In our state we are talking about 8265 students, 86.5% of whom are American Indian. Because language is so important to us we oppose measures like this bill that attempt to infringe on people's ability to use the language of their choice in any context. This bill is an attempt to demean bilingual people.

Indian people have been subjected to tremendous suffering on behalf of white people who "for their own good" used violent methods to eradicate their native languages and replace them with English. We cannot support you in the 1990's version of this philosophy as reflected in this bill. Given the fact that this country has been so successful in ensuring that Indians and immigrants learned English at the expense of their native language, we would be interested in knowing where and how in Montana the sponsor of this bill has felt that his ability to function in society is threatened or curtailed by people using languages other than English. This bill is an abusive interjection of governmental regulations into Montana's society.

In closing we wish to remind the committee that the Montana Constitution commits to " the recognition of the distinct and unique cultural heritage of the American Indian and to the preservation of their cultural integrity"(Article X, Section 1). An integral part of culture is language. We ask you to uphold the Constitution in rejecting this bill.

Minerva Allen
President
Montana Association of
Bilingual Education

The following members of the board of directors of the Montana Association of Bilingual Education wish to add their names to this testimony.

Tammy Elser
Marlene Walking Bear
Nora Bird
Bettsy Williams
Rose Chesarek
Joyce Silverthorne

EXHIBIT 8
DATE 3-8-95
HB 376

February 28, 1995

Dear Honorable Members of the Senate,
Montana Senate Administration Committee

I am a Northern Cheyenne from Busby, Montana. I have been bilingual in English and Cheyenne all of my life. Thought I now live in Alaska, I really have never left Montana emotionally and spiritually. That is why the introduction of this bill entitled "AN ACT PROVIDING THAT ENGLISH IS THE OFFICIAL AND PRIMARY LANGUAGE OF THE STATE AND LOCAL GOVERNMENTS" is highly disturbing.

This bill uses words that are broad and ambiguous. It is as if the author has no knowledge of the connotations and hidden meanings that these words convey. It is as though the author did not know that local governments could also include tribal governments. OR maybe the author did know this and deliberately used words as if they only applied to non-tribal governments. If this is true, then it is an example of the insidious manner in which the English language bill can be manipulated to serve a covert end.

If the bill were to become law, it would have wide ranging negative legal and sociological ramifications for all minority language speakers, especially Native American Indians who comprise the largest minority in Montana. The bill, even with the proviso that is will not " prohibit the teaching of Native American languages or other languages in a school for general educational purposes or as secondary languages" is also highly disturbing. What do " general educational purposes..." and "...as secondary languages..." mean?

To paraphrase James Crawford in **HOLD YOUR TONGUE**, p. 254: Why does Montana need an English language bill? Making English the "primary language of the state and local governments" seems superfluous in a state where it is spoken as a native tongue by an overwhelming number of Montanans and where even the most elderly of Native Americans adopt it as a language essential for daily living.

Any rationale for adopting an English language bill seems shallow at best. It leads one to believe that there is a hidden agenda behind the Bill. Most likely it is an agenda that will later serve to oppress people who have minimal political influence, who would be further disenfranchised because they and their languages would then be victimized by the legislative process. The bill is being used as a surrogate for racism and xenophobia.

As a lifelong speaker of two languages, with Cheyenne being my first language, I have never felt that English was endangered. Indeed, because of its versatility and flexibility, the English

EXHIBIT 8
DATE 3-8-95
HB 376

House Administration Committee
House of Representatives
State Captial
Helena, MT

On behalf of the Crow Reservation, Lodge Grass Community and concerned individuals, we would like to express our opposition to House Bill 376. Language is the most fundamental factor in education and communities, parents and children whose lives are impacted by a language other than English should be provided an educational program that assures optimal learning

Please be reminded that the Montana Constitution commits to "the recognition of the distinct and unique cultural heritage of the American Indian and to the preservation of their cultural integrity" (Article X, Section 1) An integral part of culture is language. We ask you to uphold the Constitution in rejecting this bill.

Nora Bird
Candace Not Afraid
Joe Medicine Crow
Aldean Good Luck
Susan Birdinground
Allie Birdinground
Joan Horn
Daryl G. Forrest
Colleen Brien
Roxanne Old Crow
Wallace [illegible]
James P. [illegible] Old Bull
Stephen Amyotte
[illegible]
[illegible]

Louella N. Johnson
Patricia Fitzgerald
Rosalie G. Will
Bertha Bear Claw
Jacinta Stewart
Jennifer Bull Chief
Bethanna Medicine Horse
Faith Faraway
Francis Alden
Martin Old Crow
Patric Killsnew
Eugene [illegible]
Alexander Birdinground
Larry Blackbird
[illegible]

language very readily accepts words, phrases, and terminology from many other languages. And because of this versatility and flexibility, English is endangering other languages on a world-wide basis. This speaks well for the vitality of the English language.

The languages I speak--Cheyenne and English, the country of which I am a citizen, the tribe that I belong to, and the Creator for whom I give thanks to for all of this, all cry out for understanding and tolerance from legislators and legislatures who must surely recognize the absurdity of mandating the use of only one language, in a state, in a country, and a world that is polylingual. Passing a bill mandating one language is essentially mandating how people think since speech is the outward manifestation of ideation.

Finally, remember that even the word *Montana* is derived from another language.

Dr. Dick Littlebear

Francine George Small
Victor Nomee
Sharolyn Nomee
Kimberly BrownGround
Hilma Stewart
Brian Blaine
I. Lavonne TallBear
Evan Pretty On Top
Georgie Howe
Maria CoversUp
Theresa Whiteman

Alfred Tuttle
Cari Benda
Regina Stewart
Edwina Amyotte
Clifford Birdinground Jr.
Veronica Springfield
Laura Real Bird

SENATE STATE ADMIN.
EXHIBIT NO. 9
DATE 03-08-95
HB 376

ENGLISH AS THE OFFICIAL LANGUAGE OF MONTANA GOVERNMENT

A telephone survey was conducted by The Terrance Group on February 5th and 6th at the request of U. S. English, Inc. 300 registered "likely" voters were contacted - therefore the overall survey has a plus or minus value of 5.8%.

Question: "Would you favor or oppose making English the official language of the Montana government?"

80.1 % Favor
6.3 % Unsure
13.6 % Oppose

Note: Almost 2/3 of those surveyed strongly favor making English the official language of the Montana state government.

ETHNIC BREAKS

74.3 % of African-Americans
73.7 % of Hispanics and
54.0 % of Native Americans surveyed favor making English the official language of the Montana State government.

PARTY BREAKS

85 % of Republicans
83 % of conservative Democrats and
67 % of moderate-to-liberal Democrats surveyed favor making English the official language of the Montana state government.

The survey results also showed that about:

Half the respondents were Republican leaning and about half were Democrat leaning.

Half the respondents were male.

Only 9.4 % of the respondents had less than a high school education.

About 70 % of the respondents considered themselves conservative or moderate.

SENATE STATE ADMIN.
EXHIBIT NO. 10
DATE 03-08-95
BILL NO. HB89

Amendments to House Bill No. 89
Third Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
March 7, 1995

1. Page 20.
Following: line 16
Insert: "NEW SECTION. **Section 22. Coordination instruction.** If Senate Bill No. 150 is passed and approved and if it contains a section that amends 40-8-126, then [section 2 of this act] reads as follows:

"40-8-126. Confidentiality and disclosure of record and proceedings -- appointment and duties of confidential intermediary. (1) Unless the court ~~shall~~ orders otherwise ~~order~~, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall~~ must be held in closed court without admittance of any person other than interested parties and their counsel.

(2) All papers and records pertaining to the adoption ~~shall~~ must be kept as a permanent record of the court and withheld from inspection. ~~No~~ A person ~~shall~~ may not have access to ~~such~~ the records, except:

(a) for good cause shown, on order of the judge of the court in which the decree of adoption was entered;

(b) as provided in subsection (7); or

~~(b)~~(c) as provided in ~~50-15-206~~ [sections 7 and 8].

(3) All files and records pertaining to ~~said~~ adoption proceedings ~~in the county departments of public welfare, the department of social and rehabilitation services,~~ retained by the department ~~of family services,~~ or any authorized ~~agencies shall be~~ agency are confidential and must be withheld from inspection, except ~~upon order of court for good cause shown or as provided in 50-15-206~~ as provided in [sections 7 and 8] and except that the department or authorized agency may disclose:

(a) nonidentifying information to an adoptee, an adoptive or biological parent, or an extended family member of an adoptee or biological parent; and

(b) identifying information to a court-appointed confidential intermediary upon order of the court or as provided in 50-15-206.

(4) When an adoptee reaches 18 years of age, the adoptee, an adoptive or biological parent, or an extended family member of the adoptee or biological parent may petition the court for disclosure of the identity of the adoptee, biological son, biological daughter, or biological parent. A petition for disclosure must contain the following information:

(a) the name, address, and identification of the petitioner;

(b) the date of the adoptee's birth;

(c) the county and state where the adoption occurred;

(d) the date of the adoption; and

(e) any information known to the petitioner concerning the

biological parents, the adoptive parents, and the adoptee that could assist in locating the person being sought.

(5) After a petition for disclosure has been filed under subsection (4), the court shall appoint a confidential intermediary who shall:

(a) conduct a confidential search for the person sought, as requested in the petition for disclosure;

(b) refrain from disclosing directly or indirectly any identifying information to the petitioner, unless ordered to do so by the court; and

(c) make a written report of the results of the search to the court not later than 6 months after appointment.

(6) Upon appointment, a confidential intermediary is entitled to be paid a reasonable fee plus actual expenses incurred in conducting the search. The fee and expenses must be paid by the petitioner.

(7) A confidential intermediary may inspect otherwise confidential records of the court, the department, or an authorized agency for use in the search. The confidential intermediary may not disclose the contents of the records or any results of a search unless authorized by the court.

(8) If a confidential intermediary is unable to locate the person being sought within 6 months of appointment, the confidential intermediary shall recommend to the court whether a further search is warranted and state the reasons for the recommendation. If the court finds that a further search is warranted, the court may order that the search be continued for a specified time.

(9) If a confidential intermediary locates the person being sought, a confidential inquiry must be made as to whether the located person consents to having that person's present identity disclosed to the petitioner. The court may request that the confidential intermediary assist in arranging contact between the petitioner and the located person.

(10) If a confidential intermediary locates the person being sought and the located person does not consent to having that person's identify disclosed, identifying information regarding that person may be disclosed only upon order of the court for good cause shown.

(11) If the person being sought is found to be deceased, the court may order disclosure of the identity of the deceased to the petitioner."

Renumber: subsequent sections

DATE WED 03-08-95

SENATE COMMITTEE ON ~~STATE~~ ADMINISTRATION

BILLS BEING HEARD TODAY: HB362 / HB376 / HB467

EXEC ACT: HB273 HB389 HB404

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
EVERETT L. LYNN	Self	HB376	✓	
Kate Cholewa	MT Women's Lobby	376		✓
Long Standing Bear Chief (PLO Lab.)	Self	376		✓
Helen Christensen	MT AFL CIO	376		✓
Christine Kaufmann	MHRN	376		✓
[redacted]	[redacted]			
GARY MARBUT	MSSA GOA CCRKBA WMFGA BSPSC	362	✓	
Debbie Smith	Common Cause	~~362~~		
Arlette Randash	Peace Forum	376	✓	
Brad Martin	MT Dem Party	~~362~~ 376		✓
Wade Sikorski	Self	376		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY