

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on February 18, 1997,
at 10:01 a.m., in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Bill Wilson (D)

Members Excused: Sen. Fred Thomas

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 344, SB 340 - 2/13/97
Executive Action: SB 344, SB 238, SB 269, SR 2

HEARING ON SB 344

Sponsor: SEN. JOHN HARP, Senate District 42, Kalispell

Proponents: Elaine Johnston, Montana Republican Party
Brad Martin, Montana Democratic Party
Jerome Anderson, Attorney, Helena, MT
Tara Mele, Montana Public Interest Research Group
Jean Johnson, American Information Systems

Opponents: None

Opening Statement by Sponsor:

SEN. HARP stated that he has worked with members of the
Republican Party and others interested in obtaining voter
registration lists. The proposal would require counties to
forward a list of registered voters to the Secretary of State's

Office. In even-numbered years, it would be required that the list be sent in July, right after the primary. In the general election, there would be two time-line options. In odd numbered years, the list would be sent in mid-December. The county lists would be available to interested parties. Only the state-wide list would be purchased.

In regard to the fiscal note, the Secretary of State's Office is internally driven by fees and the actual cost would be compensated by knowing exactly what the costs are and charging accordingly. Therefore, there should be no fiscal impact.

{Tape: 1; Side: A; Approx. Time Count: 10:04; Comments: None.}

Proponents' Testimony:

Elaine Johnston, Executive Director for the Montana Republican Party, stated that she worked with Brad Martin of the Democratic Party, as well as Joe Kerwin and Angela Fultz of the Secretary of State's Office in developing this bill.

Voter registration with the Secretary of State's Office has been attempted before. The proposals did not go through because of the fiscal notes attached. The fiscal note has been eliminated this time.

The practice has been that the voter information pamphlets were done by the Secretary of State's Office, and this practice would be continued. The main purpose of this bill is to have the voter registration list held at the Secretary of State's Office. This would be a convenience for the parties because it would eliminate about two months worth of phone calls and correspondence between the counties. It would also be a convenience for the clerks because the list would only need to be forwarded one time. Initiative campaigns will also benefit from this.

She presented an amendment. **EXHIBIT 1.** Items (i) and (j) under the new section are dependent upon passage of SB 361.

There is no intention to take away any power from the clerks and recorders.

{Tape: 1; Side: B; Approx. Time Count: 10:07; Comments: None.}

Brad Martin, Director of the Montana Democratic Party, stated that the bill is straightforward. It meets some simple but important goals. It conforms with the legislature's notion of increasing citizen access to government records. The registration logs of this state are currently very difficult to access.

This bill would also increase the means by which citizens can prevent voter fraud. This bill is much simpler and more efficient than similar bills proposed in the past.

{Tape: 1; Side: A; Approx. Time Count: 10:09; Comments: None.}

Jerome Anderson, Attorney, Helena, MT stated he has had experience in initiative campaigns for the past ten years. When running a statewide campaign, particularly an initiative campaign, the method of obtaining registration lists is extremely inconvenient. The process is even more difficult for those with limited funds. He was able to obtain lists in the past, but only at a very extreme cost.

{Tape: 1; Side: A; Approx. Time Count: 10:10; Comments: None.}

Tara Mele, Montana Public Interest Research Group, appeared to support the bill.

{Tape: 1; Side: A; Approx. Time Count: 10:10; Comments: None.}

Jean Johnson, American Information Systems, stated she worked in the elections area for Secretary of State Jim Waltermier for over five years. One of her responsibilities was as liaison to the clerks and recorders. The issue of state-wide voter registration came up often. The timing is right for this bill. We are in an age where we are capable of having instant information. We are moving toward connecting everyone so integrity is maintained and there is no fraud from county line to county line.

She offered to arrange a demonstration of the software that would facilitate the bill.

{Tape: 1; Side: A; Approx. Time Count: 10:12; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. DEL GAGE referred to the portion of the bill requiring that a paper copy of the list be provided. He noted that a different part of the bill requires that the list be provided in any other medium available. He inquired why a paper copy would be necessary in this case.

Joe Kerwin, Deputy Secretary of State, Elections & Legislative Bureau, responded that some counties don't have the ability to copy the list onto a diskette. The intent is to provide the list

in an electronic format whenever possible, but not if there would be a cost to the county of having to rewrite computer systems to do this. The hard copy is to be on file as a backup in case there is an error on the disk.

SEN. GAGE asked if the paper copy would just be a printout out from the hard copy.

Mr. Kerwin responded that it most likely would be.

SEN. GAGE asked what the cost of compiling and maintaining the list would be.

Angela Fultz, Chief Deputy, Secretary of State's Office, answered that the Secretary of State's Office is in a unique situation with budgeting, in that fees must be commensurate with costs. Technology has changed so much that the proposed process could be adapted at a minimal cost. The cost in maintaining the system would have to be evaluated and will depend on the system chosen.

IBM has developed a system for Connecticut that is very low maintenance, but it goes a little further than is wanted for this bill in that it connects every one of their counties and municipalities. She feels the cost of the proposal would be much smaller than for individual parties to go to each of the counties. She has heard it estimated that the cost to parties has been \$2,000 to \$3,000. The new cost would involve maintenance of the system and personnel, but no initial development costs would be involved.

SEN. GAGE reiterated that his concern was over development costs and the number of years over which the costs would be spread.

Ms. Fultz responded that the budget subcommittee must approve the fees. The Legislative Audit Committee would make certain that fees are kept commensurate with costs.

CHAIRMAN HARGROVE asked what the cost effect would be at the county level.

Robert Throssell, Lobbyist for the Montana Association of Clerks & Recorders, stated that clerks and recorders have indicated having a central repository may be beneficial. The requests for the lists come right before the election, which is the worst possible time. This bill may help alleviate that.

He clarified that information as to gender is no longer collected for registration.

Some counties have computer systems, but the systems are not uniform among the counties. If the people requesting the information would be willing to accept it in the way the county has it formatted, the clerks and recorders would not have a problem with the portion of the bill relating to that.

CHAIRMAN HARGROVE inquired about the amendment proposed by **Ms. Johnston**.

Ms. Johnston explained that SB 361 proposes the new requirements to be listed for voter registration. The amendment refers to whether a person is allowed to vote on the federal, state or local level.

SEN. GAGE pointed out that the term "when possible" on page 1, line 18 resolves the issue of gender no longer being listed for registration.

{Tape: 1; Side: A; Approx. Time Count: 10:19; Comments: None.}

Closing by Sponsor: None.

HEARING ON SB 340

Sponsor: SEN. LORENTS GROSFIELD, Senate District 13, Big Timber.

Proponents: Jerome Anderson, Attorney
David Owen, Montana Chamber of Commerce
Angela Janacaro, Montana Mining Association
Nita Periman

Opponents: Tara Mele, Montana Public Interest Research Group
Deborah Smith, Common Cause

Opening Statement by Sponsor:

SEN. GROSFIELD stated SB 340 is intended to revise some aspects of the statutes concerning ballot issues. There is a lot of concern among constituents about the ballot initiative process.

One concern is that there are too many issues on one ballot. Another concern is about the form of petitions. There was a court case in the last interim dealing with a petition. The judge found the statutes are unclear and allow almost anything to be put on a petition.

If the legislature turns down the bill to ban obscenity, the issue may go to an initiative. A petition has the stamp of approval of the Attorney General, the Secretary of State and the Legislative Services Division. There is potential that a graphically obscene photo, used to illustrate a point, would be put on an official document. This would be unacceptable. However, with the statutes as they exist, the petition would be approved.

There have been individuals who have brought ballot issues to the Legislative Services Division. Statutes state that when this

occurs, the division has to essentially drop what it is doing and develop and refine a draft. Tax dollars are paying for this process. If the issue is sincere, that's fine. However, last year one individual submitted eight issues.

The process of drafting also involves the Attorney General's Office and the Secretary of State's Office. For each issue, the President of the Senate, Speaker of the House, Governor and Attorney General must appoint a panel to draft the opponents' argument.

One of the ballot initiatives, to shorten the number of feet one can park from a corner, arose from the individual getting a ticket for parking too close to a stop sign. Staff money from all the offices involved were spent on this initiative, and in the end, the individual didn't even try to gather signatures.

For the eight initiatives, **Greg Petesch** estimated the cost to the Legislative Services Division to be \$8,000. The costs to the other offices involved probably came to \$2,000. Last interim, 31 initiatives were applied for, with only 5 qualifying.

Section 1 of the bill would expand the number of words that can be used to describe an initiative. This stems from the difficulty encountered in having to adequately summarize the complex issue of I-122 in 100 words. There is the concern that if too long, voters wouldn't read the title, but this bill allows for only a few more words.

The next section provides that only the number, title and text of the measure appear on a petition. Brochures could be developed, but would have to be separate from the petition.

Section 3 would require 50 signatures to present an idea for an initiative. He considered imposing a fee, but that may deprive some people of using the process. If at any time it were determined that there are not 50 valid signatures of registered voters, the entire petition would be withdrawn.

Page 3, line 25 would be a substantive change that may be controversial. This would give the local clerks and recorders an extra three weeks to sort through and verify all the signatures. This change would also cause the deadline to be before the primary. He has heard many constituents complain about signature gathering at the polling place.

{Tape: 1; Side: A; Approx. Time Count: 10:40; Comments: None.}

Proponents' Testimony:

Jerome Anderson, Attorney, reiterated that he has had substantial experience with the area of ballot issues. The statutes

regarding ballot issues need even further straightening than provided by this bill.

He managed the campaign in opposition of I-122. The proponents of I-122 filed a series of petition forms that culminated in a form approved by the Secretary of State's Office, the Attorney General's Office and the Legislative Services Division. The petition circulated was not the form approved. The changes were misleading and a number of statements in the preamble were not accurate. The opposition, therefore, filed suit.

{Tape: 1; Side: A; Approx. Time Count: 10:43; Comments: END OF SIDE 1.}

The court found that statutes do not prohibit extraneous language, nor do they put a duty on the Attorney General's Office or Secretary of State's Office to review petitions for accuracy. The public, however, perceives that the petition has been approved by these offices. Arguments about the initiative should be made in documents separate from the petition.

David Owen, Montana Chamber of Commerce, referred to a book relating to the future of democracy and the information age. The book indicates the initiative process is becoming more common. This is not a sign that the legislature is failing, but rather a sign that people want more control over government. As he travels the state, he gets the sense that people like the initiative process. This bill will improve the process.

Angela Janacaro, Montana Mining Association, stated that the points of **SEN. GROSFIELD** are without malice and she supports the bill.

Nita Periman, stated that she was intimately involved with I-122 and saw first-hand what happened with the attempt to gather signatures. She thinks the bill is wonderful.

{Tape: 1; Side: B; Approx. Time Count: 10:48; Comments: *None.*}

Opponents' Testimony:

Tara Mele, Montana Public Interest Research Group, presented written testimony. **EXHIBIT 2.** She pointed out that instructions to petition circulators would have to be omitted under the bill.

Also, legislative bills and legislative initiatives often contain "whereas" wording. If this is removed from the citizen process, it should be removed from the legislative process as well.

Deborah Smith, Common Cause, objected to the portion of the bill that would move up the date by which the petition must be submitted to the clerks and recorders. That cuts off almost a

month of signature gathering time and could present a substantial barrier to qualifying a ballot initiative. Placing an initiative on a ballot is a Constitutional right. The initiatives often address issues that the legislature cannot or will not address. Many of the campaign finance reform laws were passed by ballot initiatives. The lobbying act regulations were originally passed by ballot initiatives. People want control of their government.

In regard to the individual who submitted eight initiatives, rather than amend statutes to make it virtually impossible for legitimate issues to be placed to a vote, change the Constitutional process. Last session there was a bill that, as amended would have eviscerated portions of I-118. Supporters of I-118 were able to change the legislators mind by drawing public attention to the bill. Despite the good intentions of SB 340, moving up the date for submission of signatures is ill advised and should be stricken from the bill.

She strongly urged that page 2, lines 11-16 be stricken. Often times, the wording of the ballot initiatives gets right down to the wire. Crazy people can get signatures, too. This portion of the bill does not get at the problem she thinks **SEN. GROSFIELD** wants to address. Getting 50 verified signatures could mean getting 100 or more signatures. There will always be people who take advantage of a situation.

She is also concerned about limiting language that would go on the petition to only what is specified in this bill. This may raise significant free-speech and equal protection issues, especially if the legislature is free to put on its "whereas" list and the public is not.

Increasing the allowed words in the title to 150 would be a very worthwhile change.

{Tape: 1; Side: B; Approx. Time Count: 10:58; Comments: None.}

Informational Testimony:

Beth Baker, Department of Justice, explained the role of the Department in the process described by **SEN. GROSFIELD**. The Department receives the petitions from the Secretary of State's Office and is responsible for drafting the language to appear on the petition, and on the ballot itself if the petition qualifies. Employees of the department draft the statement of purpose and the statement of implication. They also review and approve or reject the form of the petition before returning it to the Secretary of State's Office. A fiscal note, which also goes on the ballot, is received from the Budget Office.

The importance of these functions cannot be overstated. Many voters will read only those statements prepared by the Attorney General in deciding how to vote. The office works

extraordinarily hard to make sure the statements are clear, accurate and easily understandable to the average voter.

She agrees with the proposal to increase the word limit of the title. She has concern, however, about the proposal that the statement of purpose be in the same format as in bills.

She referred the committee to the sentence on page 5, lines 11-15 which says that the statements, which are prepared by the Attorney General's Office, must be in plain, easily understood language. There are times this provision would be violated if the statement were drafted in the form of a bill title. Those who are familiar with bill titles can understand them, but the average voter does not have this familiarity. There are many things in a bill that are not necessarily reflected in the title. She showed HB 671 of the 53rd Legislature as an example. **EXHIBIT 3.** The law requires the Attorney General to seek comment on the statements. Flexibility is necessary to look at a complex initiative or piece of legislation, in trying to distill in down to an understandable statement. The voters, for all practical purposes, don't really care what sections of law are being amended. The importance of the statement is to explain what the impacts of the amendments will be.

She referred the committee to page 2, line 3 of the bill and recommended that the term "section" be changed to "chapter" because the bill goes on to prescribe additional items for a petition that are not contained in this section of the law.

Her office is involved not only in presenting the statements of purpose, but in defending challenges to initiative petitions. They have attempted to preserve the people's right to petition for initiatives as set forth by the legislature. They welcome attempts to make the process more efficient, but don't take a position on most of the substantive issues raised by SEN. GROSFIELD.

{Tape: 1; Side: B; Approx. Time Count: 11:04; Comments: None.}

Questions From Committee Members and Responses:

SEN. KEN MESAROS referred to page 2, lines 11-16, and commented that the 50 signature limit is not given as minimum amount, so meaning the petition could be invalidated for having 51 signatures. He asked what the time-line is for invalidating the petition due to improper signatures and whether finding just one invalid signature very late in the process would cause a petition to be invalid.

SEN. GROSFIELD responded that it would make sense to insert "at least" for the requirement of 50 signatures. Referring to previous testimony, he allowed that it is true that getting more

than 50 signatures would probably be necessary to get at least 50 valid signatures.

In regard to finding one invalid signature, if that signature reduced the number of valid signatures to less than 50, the petition would be invalid. People already gather more signatures than necessary in order to have a margin of safety.

The suggestion for the way lines 12-16 are drafted came from the Secretary of State. **SEN. GROSFIELD** initially proposed that the county clerks and recorders verify the signatures and that gatherer pay them for a certified copy. This would have put a burden on the county. The Secretary of State Office suggested the signatures be sent to their office and that random checks be made. This creates a self-policing process, shifting the cost of verifying to someone opposing the initiative.

SEN. GAGE asked what part of the bill prohibits gathering signatures at polling places.

Ms. Mele explained that the portion of the bill that moves the deadline for submitting signatures would cause the inability to gather signatures at polling places.

Mr. Kerwin referred **SEN. GAGE** to Section 4 of the bill. The current deadline for getting petitions into the Secretary of State's Office is the third Friday of the fourth month prior to elections, which falls in mid-July. The deadline for getting petitions into counties is four weeks prior to that. This bill moves the deadline up three weeks, prior to the primary.

SEN. GAGE noted that the legislature can use "whereas" on bills because each "whereas" can be questioned or explained at hearings. The petition process has nothing requiring this.

Ms. Smith agreed with **SEN. GAGE's** point. However, the "whereas" portion of a bill may represent the only views of the majority and not any of the comments or criticisms from public hearings. The potential to reflect the view of only one side is just as great as with a private group proposing its own ballot initiative.

SEN. GAGE asked whether the Secretary of State's Office, if it opposed a particular initiative, could wait until the last minute to point out signatures that would invalidate the petition.

SEN. GROSFIELD responded that he does not think that could happen. No place in the bill does it say that the Secretary of State would verify the signatures. It says the signatures would be submitted to the Secretary of State and that they could be randomly checked. This brings in the self-policing aspect; the signatures would be verified by people outside the Secretary of State's Office.

SEN. GAGE suggested that perhaps the Secretary of State's Office ought to make sure the signatures are valid before sending the petition to the Legislative Services Division for review.

SEN. GROSFIELD argued that the self-policing nature of the proposal would serve to have valid signatures because proponents would understand that without them, their whole effort is out the window. This prevents tax-payer dollars from being used to have a state agency verify signatures.

SEN. GAGE commented that a big thrust of the bill is to assure the work being done by all the entities is not being done in vain. Verifying signatures early in the process would do that. He asked what happens if a signature is valid at the time someone signs the petition, but that person moves out of state and is no longer a voter here.

SEN. GROSFIELD asserted that the same issue could arise with the need to get 20,000 signatures. That's why it's important to get more than enough signatures.

Records for verifying signatures are at the county level and the burden would be put on the county clerks and recorders. This bill is trying to avoid that impact on the counties.

Mr. Kerwin stated that as long as a signature is valid at the time of signing, it is deemed valid for purposes of the petition.

SEN. GAGE asked if there would be a problem verifying signatures for a bill heard prior to that time.

Mr. Kerwin responded that the Secretary of State's Office could verify whether someone is a registered voter, but could not check the signature. The registration card with the comparison signature would be at the county level.

{Tape: 1; Side: B; Approx. Time Count: 11:19; Comments: END OF SIDE 2.}

SEN. BILL WILSON suggested that language pertaining to the validity of a signature at the it time is collected be inserted into the bill.

SEN. GROSFIELD replied that he does not have a problem with that, but believes that current statute is already interpreted that the way **Mr. Kerwin** stated.

SEN. WILSON asked how, under this bill, the signatures would be scrutinized.

Mr. Kerwin explained that the petition would be submitted to the Secretary of State's Office. The office would not check each signature, but would just count up the number of signatures. The

office may do random checks. The reason for the random checks is that there was a case in 1992 of people collecting signatures for a presidential candidate by simply going through the phone book and writing down names. The writing for each signatures was exactly the same and the signatures were in alphabetical order. Random checks would protect against that type of gross abuse. The process would be self-policing. The office would be relying on information from the counties in checking signatures.

SEN. WILSON reiterated **SEN. GAGE's** concern that signatures could be scrutinized more heavily for issues in which the Secretary of State had a special interest. He would like to see all the signatures checked.

Mr. Kerwin responded that the proposal currently in the bill has been proposed to avoid bureaucratic control. In order to check each signature, each petition would have to be sent to the county where each signer was registered to vote. If the Secretary of State withdrew an initiative due to the interest of the office, the office would quickly be taken to court.

Ms. Baker recommended inserting a deadline in the bill so that the initial signatures could not be challenged after an initiative is qualified.

SEN. GAGE suggested that "for purposes of Section 3 (1) (a), the county officials shall verify that at least 50 signatures are valid" be inserted after the first sentence in Section 5.

SEN. GROSFIELD reiterated that this would put a burden on the counties. There is nothing in the bill that says that signatures have to be from one county. There could be one signature each from 50 different counties. He understands the concern of the committee, but does not want to burden the counties.

SEN. GAGE reiterated his concern that the state agencies could put in a lot of work, only to discover that there aren't enough valid signatures.

SEN. VIVIAN BROOKE asked **Ms. Smith** if she understands **SEN. GROSFIELD's** concern that there are people who turn in frivolous recommendations for initiatives.

Ms. Smith responded that she does understand the concern. However, discussion by the committee about when and how signatures should be validated demonstrates that the approach in SB 340 is not appropriate. The way to stop abuse of the current initiative process is to give the Secretary of State authority to impose penalties for frivolous submissions. Someone who could spend the time and effort to come up with eight ballot initiatives, however frivolous, could make the effort to come up with 50 valid signatures. Fining someone \$100 for each frivolous proposal would, however, be a deterrent.

CHAIRMAN HARGROVE asked what protections are currently in place for people getting signatures at the polling place.

Mr. Kerwin responded that collecting signatures at the polling place for the primary election is not considered electioneering since it is not advocating an issue that appears on the ballot for which people are voting at that time. However, the election judges do have the authority to make sure voters have unobstructed access to and from the polling place.

CHAIRMAN HARGROVE asked **SEN. GROSFIELD** if he had any thoughts about the bill's format after hearing **Ms. Baker's** testimony.

SEN. GROSFIELD stated that he ran an earlier format of the bill by the Attorney General's Office. **Ms. Baker** expressed the same concerns at that time. He took those concerns to **Mr. Petesch** who was not bothered by the concerns. He thinks that **Ms. Baker** raises a good point that the average voter is not used to reading bill titles. The suggested change from "section" to "chapter" also makes sense.

{Tape: 2; Side: A; Approx. Time Count: 11:33; Comments: None.}

Closing by Sponsor:

SEN. GROSFIELD pointed out that there are 90 words in the title of SB. That goes to the issue of the need to extend the word limit to 150. SB 340 is not an attempt inhibit the initiative process, rather it is an attempt to streamline it.

The challenge to get signatures is not as great in this age of fax machines, e-mail and other technological advances. In regard to the statement about not having gathering places, we now have shopping malls and other means to gather signatures.

Changing the deadline for submitting signatures serves two purposes. One is to give the county clerks and recorders enough time for verification. He thought about moving the deadline by five or six weeks, however, this caused the deadline to be before the primary election in some years and after it in others. He and many constituents feel intimidated by signature gatherers at polling places.

The opponents to the bill raised some good points. Instructions to signature gatherers should be allowed on the petition as long as they are brief and to the point. Limiting out-of-state paid signature gatherers is a great suggestion.

The initiative process is much different from hearings in that many ideas can be generated at a hearing. There is no ability to amend an initiative. Refining the initiative process is necessary.

The suggestion of a deadline for the validation process is good, but the deadline should not be too short.

Someone presenting frivolous suggestions for initiatives probably wouldn't make the effort to get the necessary signatures. Also, there are probably not many people that would sign to get something frivolous on a ballot.

Including penalty provisions for frivolous petitions would require court costs to determine what is frivolous and would prohibit an individual's right to petition. The right to petition should be preserved, but the process should be more formal and respectful.

{Tape: 2; Side: A; Approx. Time Count: 11:41; Comments: None.}

EXECUTIVE ACTION ON SB 238

Discussion:

Mr. David Niss, Legislative Services Division, explained that SB 238 provides for a reduction in the charge if an agency has a balance that is more than the operating fee for more than two years.

CHAIRMAN HARGROVE recalled that there were a couple of proponents and no opponents.

SEN. MESAROS asked if there were amendments.

CHAIRMAN HARGROVE responded that there were not.

Motion: SEN. WILSON that SB 238 DO PASS.

Discussion:

SEN. GAGE asked if there was any discussion about there being no consequence for an agency not being within cost ranges if the legislature has set fees in statute.

Mr. Niss explained that if the fee is set by statute, it is not subject to Section 3 reduction because the statute has to be amended through the legislative process. However, on page 2, line 3, the definition of a charge for services does include "for the purposes of discovery by the State Auditor". And the report required by Section 4 (inaudible) include a charge set by statute for those limited purposes, but not for the purposes of the reduction required by Section 3.

SEN. GAGE clarified that an agency could not acquire more than two years of operating amount, even if the fee is statutory.

Mr. Niss responded that SEN. GAGE is correct, but the agency would have to keep charging the fee because it is set by statute. It would be brought to the attention of the legislature through the Legislative Audit process and the report required by Section 4, but it would then be up to the body to change the fee in statute.

SEN. GAGE asked if the bill requires that any balance above two years has to be reduced for statutory fees.

Mr. Niss responded that it does not.

SEN. GAGE asked if an agency would have to determine to what extent accumulated statutory fees and fees-by-rule contribute to the excess amount, or if an agency would be able to say that all fees over the two years are as a result of statute rather than rules.

CHAIRMAN HARGROVE clarified that the bill does not tell what to do with the money; it just tells the government to reduce the charges, which can only be done for the charges done by rule. Statutory charges can't be reduced.

SEN. GAGE inquired whether, in determining how much is in the fund in excess of two years, there is a way to determine whether statutory or rule fees have caused the excess. If statutory fees are causing the excess, the agency should reduce the fees by rule to balance.

Vote: The motion CARRIED UNANIMOUSLY.

{Tape: 2; Side: B; Approx. Time Count: 11:51; Comments: None.}

EXECUTIVE ACTION ON SB 296

Discussion:

CHAIRMAN HARGROVE recalled there were three proponents and no opponents.

SEN. GAGE recalled that one of the proponents would not be covered by the bill.

SEN. MESAROS inquired about actuarial costs.

SEN. GAGE noted that when people are brought into a plan that is already in existence, the desire is to keep the plan actuarially sound. The money put in by buying various years of service would not accumulate the interest it would have had the people worked for those years. This causes the people buying the years to have to pick up that interest. It was indicated by one of the proponents that this may not even be a feasible plan.

Motion/Vote: SEN. GAGE moved that SB 296 DO PASS.
The motion CARRIED UNANIMOUSLY.

{Tape: 2; Side: A; Approx. Time Count: 11:54; Comments: None.}

EXECUTIVE ACTION ON SB 344

Amendments: sb034401.adn (EXHIBIT 4)

Motion: SEN. MESAROS moved that SB 344 DO PASS.

Discussion:

Mr. Niss explained that the amendment applies to both the current last subsection and the new subsection that would be added.

SEN. GAGE suggested that the reference to gender in the amendment be left in because the bill calls for information "when possible" and if gender is not asked, it is not possible to provide the information.

Mr. Niss clarified that the "voter registration status" refers to the NVRA, or whether a person is on what the United States will now refer to as the active or inactive lists. The effect of the NVRA is that, unless one fails to vote in two sequential elections, one never drops off the active list. The state doesn't have an active or inactive list; at the state level, someone is either a registered voter or not. For the purposes of federal elections, NVRA requires that the state separate voters that voted in the last two federal elections from those who did not. The state must keep carrying those two lists forward.

Substitute Motion/Vote: SEN. GAGE that AMENDMENT SB034401.ADN BE ADOPTED. The motion CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MESAROS moved that SB 344 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

{Tape: 2; Side: A; Approx. Time Count: 11:58; Comments: None.}

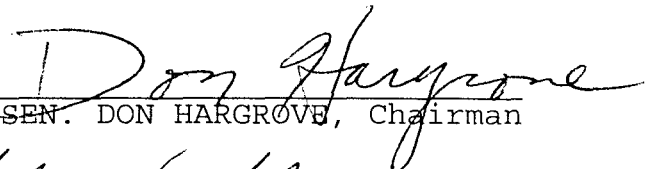
EXECUTIVE ACTION ON SR 2

Motion/Vote: SEN. GAGE moved that SR 6 BE TABLED.
The motion CARRIED UNANIMOUSLY.

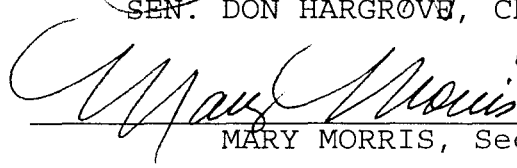
{Tape: 2; Side: A; Approx. Time Count: 11:59; Comments: None.}

ADJOURNMENT

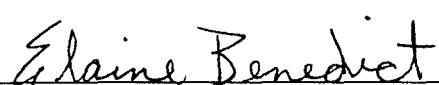
Adjournment: 12:03



SEN. DON HARGROVE, Chairman



MARY MORRIS, Secretary



ELAINE BENEDICT, Transcriber

DH/EMB