

SB 259 INTRODUCED BY RASMUSSEN
ALLOW SALE OF MAILING LISTS BY STATE OR LOCAL
AGENCIES

1/30 INTRODUCED
1/30 REFERRED TO LOCAL GOVERNMENT
1/31 FISCAL NOTE REQUESTED
2/10 HEARING
2/10 FISCAL NOTE RECEIVED
2/21 STATEMENT OF INTENT ADOPTED
2/21 ADVERSE COMMITTEE REPORT ADOPTED
AS AMENDED

43 2

1 Senate BILL NO. 259
 2 INTRODUCED BY Rasmussen
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SALE OF
 5 MAILING LISTS BY STATE AND LOCAL GOVERNMENTS; ALLOWING AN
 6 INDIVIDUAL TO WITHHOLD CONSENT FOR INCLUSION OF HIS NAME ON
 7 SUCH A MAILING LIST; PROVIDING THAT ALL AGENCY FORMS CONTAIN
 8 A CHECKOFF FOR WITHHOLDING SUCH CONSENT; AND AMENDING
 9 SECTION 2-6-109, MCA."

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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-6-109, MCA, is amended to read:
 13 "2-6-109. ~~Prohibition~~ Restrictions on distribution or
 14 sale of mailing lists -- penalty. (1) ~~Except-as-provided--in~~
 15 ~~subsections--(3)--(4)--(5)--and--(6)--in~~ In order to allow
 16 individuals to protect the their privacy when dealing of
 17 ~~those--who--deal~~ with state and local government; an agency
 18 shall prepare each form required to be submitted to it by an
 19 individual to contain a checkoff to indicate whether the
 20 individual withholds permission to allow his name to be
 21 included on mailing lists.

22 ~~(a)(2) no~~ An agency may distribute or sell for use as
 23 a mailing list any list of persons without after first
 24 ~~securing-the-permission~~ deleting from the list the names of
 25 ~~those of--those-on-the-list--and~~ who withheld permission to

1 include their names as provided in subsection (1).

2 ~~(b)(3) no~~ A list of persons prepared by the agency may
 3 be used as a mailing list except by the agency or another
 4 agency ~~without-first-securing~~ unless the permission of those
 5 who would be included on the list is withheld.

6 ~~(2)(4)~~ As used in this section, "agency" means any
 7 board, bureau, commission, department, division, authority,
 8 or officer of the state or a local government.

9 ~~(3)(5)~~ Except as provided in 30-9-403, this section
 10 does not prevent an individual from compiling a mailing list
 11 by examination of original documents or applications which
 12 are otherwise open to public inspection.

13 ~~(4)(6)~~ This section does not apply to the lists of
 14 registered electors and the new voter lists provided for in
 15 13-2-115 and 13-38-103, or to lists of the names of
 16 employees governed by Title 39, chapter 31.

17 ~~(5)(7)~~ This section shall not prevent an agency from
 18 providing a list to persons providing prelicensing or
 19 continuing educational courses subject to Title 20, chapter
 20 30, or specifically exempted therefrom as provided in
 21 20-30-102.

22 ~~(6)(8)~~ This section does not apply to the right of
 23 access either by Montana law enforcement agencies or, by
 24 purchase or otherwise, of public records dealing with motor
 25 vehicle registration.

1 †7†(9) A person violating the provisions of subsection
2 †1††b† (3) is guilty of a misdemeanor.
3 (10) An agency may not sell a mailing list for less
4 than the cost of producing the list."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB259, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing sale of mailing lists by state and local governments; allowing an individual to withhold consent for inclusion of his name on such a mailing list; providing that all agency forms contain a checkoff for withholding such consent; and amending Section 2-6-109, MCA.

ASSUMPTIONS:

1. Effective date of proposed legislation is October 1, 1987.
2. New forms or modifications to current forms will need to be made to reflect checkoff procedure, for the majority of state government.
3. Existing data for lists were compiled without the checkoff feature, so new mailing lists will have to be compiled from data accumulated after the effective date.
4. Data processing systems of agencies would have to be modified to accommodate the checkoff requirement.
5. Agencies would incur costs complying, even if few to no requests for mailing lists are anticipated.
6. Random sample of agencies was used in determining impact.
7. Revenue would be deposited in general fund.
8. Agency budgets will need to be increased to absorb the costs of the proposed legislation.

FISCAL IMPACT:Expenditures:

Initial Compliance Costs:	Personal Services	\$ 131,851
	Operating Costs	<u>1,247,356</u>
		\$1,379,207

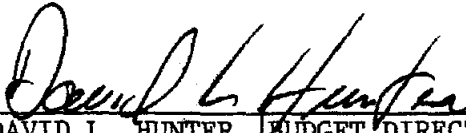
Annual Maintenance Cost:	Personal Services	\$ 126,657
	Operating Costs	<u>197,000</u>
		\$ 323,657

Funding Source:

All funds would be impacted. However, the general fund will probably fund the majority of the cost.

Revenues:

Impossible to determine

 DATE 2/7/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE _____
 TOM RASMUSSEN, PRIMARY SPONSOR
 Fiscal Note for SB259, as introduced

SB 259

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Local school districts would also be required to make similar revisions to computer programs and forms. Estimated \$300,000 increase costs to large and intermediate school districts.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The cost of maintaining revised systems may be prohibitive in the actual selling of the mailing lists.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

1. It is unclear to what extent of liability there is on the state and local governments for errors made in capturing data. (The accidental inclusion of a name on a mailing list when an individual withholds permission.)
2. Client and recipient lists of some departments are confidential by statute and/or federal regulation. This legislation would have to be compared to federal regulations. Clients could lose privacy rights by virtue of checking off yes/no box on forms.
3. Definition of forms which require check-off not at all clear.
4. Page 2, lines 2-5, implies that the Office of Public Instruction could be restricted from sending mail to teachers and school officials even for required agency activities.