

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 13, 2003
at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: Rep. Pat Wagman (R)

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 277, HB 468, HB 471, HB 503,
2/5/2003;

Executive Action: HB 277 & HB 471 DO PASS;
HB 513 TABLED;
SB 195 BE CONCURRED IN AS AMENDED

HEARING ON HB 277**Sponsor:** REP. MONICA LINDEEN, HD 7, Huntley**Opening Statement by Sponsor:**

REP. LINDEEN stated this bill extends term-limits from 8 to 12 years; it will be submitted to the electorate in 2004. She contended that less-experienced legislators are relatively lacking in institutional knowledge, thus rely more on staff, lobbyists and the power of the bureaucracy. She said legislators form relationships of trust and reach across the aisle, but that something happens when they know they are only [in the Legislature] for eight years.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.6}**Proponents' Testimony:**

SEN. FRED THOMAS, SD 31, Stevensville, said he was involved in the original Initiative in 1992, but changed his mind; eight years is too short. A Senate bill will be coming into this committee to repeal term-limits and he asked them to keep it in committee.

Co-Sponsor SEN. JOHN ESP, SD 13, Big Timber, said this gives people a better voice. He said the legislators' job is a part-time job; they come for 90 days and do not have the opportunity to learn the job as those in elected office.

{Tape: 1; Side: A; Approx. Time Counter: 4.6 - 9.2}**Opponents' Testimony:** None**Informational Testimony:** None**Questions from Committee Members and Responses:**

REP. DICKENSON asked REP. LINDEEN about Sections d and e. The U.S. Supreme Court overturned limits for U.S. Congressmen but REP. LINDEEN left that line in because one bill cannot address two subjects. REP. A. OLSON questioned how it would get onto the ballot. REP. LINDEEN assured him the Legislative Council cleared it. Ms. Heffelfinger explained the technicalities of the language.

{Tape: 1; Side: A; Approx. Time Counter: 9.2 - 11.9}**Closing by Sponsor:**

The sponsor said this bill is a good compromise.

{Tape: 1; Side: A; Approx. Time Counter: 11.9 - 13}

HEARING ON HB 503

Sponsor: REP. JOE BALYEAT, HD 503

Opening Statement by Sponsor:

REP. BALYEAT said this bill allowed cross-party candidates to be endorsed by more than one party, and to have the votes added from each party ballot where their name appears in general elections, as it does now for primaries. He is trying to correct the "wasted-vote syndrome" where the winner did not even get 50% of the vote. The bill would address that people don't bother to vote because the present law is inconsistent and convoluted. In contrast, he cited New York State as an example where third parties' role was vibrant, not "spoilers" like they are here. Forty other states prevent or discourage this free speech issue, while ten allow this "fusion" of party votes. He referred to REP. GALVIN-HALCRO's HB 25 which had already passed this committee; it would prevent the use of symbols like the donkey or elephant beside the name, in addition to preventing running on more than one party's ticket.

{Tape: 1; Side: A; Approx. Time Counter: 13 - 24.9}

Proponents' Testimony:

Jim Fleischman, New Majority Education Fund, a ballot-access organization, said this cross-party vote fusion was once legal in every state. It is a rich part of our populist agrarian history in Montana. It is not complicated or costly and will address the disgraceful rate of voters' participation because choices are limited. When only 55% of the people vote, then one quarter or 27% can elect a governor or president. This disenfranchisement by the winner-take-all attitude distorts democracy and people feel they do not make a difference, he testified.

Bob Nichol, Green Party, Bozeman, said he saw fusion working in New York. The reason it was banned here in 1866 was that Populists scared legislatures in the west. Minor parties are more issue-oriented, he said. This bill would be a pain for major parties but their comfort is not what the system is for.

Mike Fellow, Montana Libertarian Party Chairman, also testified in favor.

{Tape: 1; Side: A; Approx. Time Counter: 24.9 - 43}

Opponents' Testimony: none

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WINDY BOY asked **REP. BALYEAT** about Line 9. He deferred to **Ms. Heffelfinger**, who said one must declare after the primary which one party they will be associated with on the ballot. **REP. B. OLSON** noted that voters don't have to vote a party ticket. The sponsor agreed. **REP. OLSON** said if they vote for major parties that is their free choice. Sponsor agreed but said that by November their choices have been limited. **REP. OLSON** questioned if giving more opportunity to the apathetic would change anything. Sponsor said that it would; limiting choices leads to voter disdain and they don't even register. **REP. OLSON** asked if **REP. BALYEAT** envisions fragmentation and multiparty coalition. He replied that New York Republican Governor Pataki's winning margin was from the Constitutional Party. This bill would give recognition to caucuses, he said.

REP. BROWN asked Mr. Nichol if there were any studies linking non-voting to avoiding jury selection. **Mr. Nichol** had heard of none but agreed jury duty should be tied not to voter registration, but to having a driver's license, so people wouldn't have that incentive not to register. **REP. BECKER** asked if a candidate would have to declare one party for the general election. **Mr. Nichol** said they would not, and it would force major parties to pay attention to constituencies but it would irritate them. **REP. SMITH** asked the sponsor what happens if a person ran for three parties. The answer was that whomever got the most votes, regardless of their party, would win the general election. **REP. SMITH** asked what happens if one ran on three tickets and the other only ran on one. **REP. BALYEAT** said it's their free choice.

REP. BALLANTYNE asked if the percent turnout was higher in fusion states. He replied he would have to get that information. **REP. JACOBSON** asked if this bill is similar to New York law on this. The sponsor said he was not sure, but he told the drafter to take a look at their law. **REP. LEHMAN** asked about the title of the bill. **REP. BALYEAT** replied that "partisan" means "elected with party designation," and did not apply to school boards. Primaries already allow candidates to run in more than one party. This bill has coordination language with **REP. GALVIN-HALCRO**'s bill; if this passes, it takes precedence.

REP. DICKENSON asked Mr. Fleischman if it would be harder to defeat an incumbent. **Mr. Fleischman** said it is actually easier

to tackle incumbents if the combination ticket is allowed. She asked if major campaign reform would do the same thing. He said, "No, the two major parties rely on brand recognition." **REP.**

ROBERTS told Mr. Nichol that the reason the law reads as it does now is that in 1896, the mines in Butte controlled all of Montana's news sources and the "Copper Kings" put the same candidates on different party primaries, bought elections, and performed other abuses. **Mr. Nichol** admitted ignorance of Montana history.

REP B. OLSON asked the sponsor if Montana's turnout should be higher than New York, if it would disprove his theory. He replied that he would get that data, but even if it is true, other factors may account for it; they should look at before-and-after data in just one state to control for those extraneous factors.

{Tape: 1; Side: A; Approx. Time Counter: 43 - 66}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 7.5}

Closing by Sponsor:

REP. BALYEAT said major campaign reform is heavy-handed and may never pass. The Secretary of State said he would not oppose this. Sponsor called attention to the fiscal note which shows no cost. He said he will have another bill coming on election reform. This question needs debate, he concluded.

{Tape: 1; Side: B; Approx. Time Counter: 7.5 - 11}

HEARING ON HB 468

Sponsor: **REP. KIM GILLAN, HD 11, Billings,**

Opening Statement by Sponsor:

REP. GILLAN said the bill demands that campaign literature be signed by the candidate, stating it is true to the best of their knowledge; they also cannot use the state seal in election material. She gave a fact sheet, an example of someone putting out inflammatory material about another's voting record. Under her bill, the source would have to sign for the accuracy of the information. The bill is intended to restore confidence in the election process and change the direction of turnout. There is misinformation and confusion, but truth cannot be compelled under the First Amendment or the code of ethics. She said she is open to amendments to improve the bill.

EXHIBIT (sth32a01)

{Tape: 1; Side: B; Approx. Time Counter: 11 - 19}

Proponents' Testimony:

Brad Martin, Executive Director, Montana Democratic Party, said both Republicans and Democrats can work together on this issue. {Tape: 1; Side: B; Approx. Time Counter: 19 - 21.2}

Opponents' Testimony:

Mike Fellow, Libertarian Party, said this bill is not necessary. There will always be confusion about someone's voting record, since there are three readings on every bill. {Tape: 1; Side: B; Approx. Time Counter: 21.2 - 21.9}

Informational Testimony:

Dulcy Hubbert, Program Manager, Commissioner of Political Practices, was present to answer questions.

Questions from Committee Members and Responses:

REP. BROWN asked **Mr. Martin** if it would eliminate a situation like hers, where someone distributed misinformation on her record. He said it would not, but it would say who published the information. She asked the sponsor if they could use their official stationery if it had the seal. **REP. GILLAN** said it is ambiguous. If they pay for it themselves, it is okay. If it conveys how they voted, that is not election material. **REP. BROWN** asked if she could write a letter of rebuttal to her constituents on her stationery with no seal. **REP. GILLAN** said that's a tricky question. It is a gray area between a letter of information and election material. But if those publishing have to sign the materials, it would probably assure more accuracy.

She deferred to **Dulcy Hubbert**, who said if stationery is paid for by the public funds, they can't use it [for anything relating to elections]; if they paid for it, they can use it for anything, with a disclaimer that they did pay for it. **REP. BROWN** asked where the line was drawn. **REP. GILLAN** said that **REP. BROWN'S** letter would probably not be campaign material.

REP. DICKENSON asked about Page 1, Line 28. Political Action Committees (PACs) often distribute material without working with candidates; she asked the sponsor to amend the bill to clarify who needed to sign. **REP. GILLAN** agreed, and said even when a treasurer signs, the persons publishing this material could mostly remain anonymous. **REP. DICKENSON** asked what to do if the

accuracy statement would not fit on small pieces like refrigerator magnets. **REP. GILLAN** said they would have to call the Commissioner of Political Practices to find out what to do then. She said the operative word is election material; it is a gray area that needs to be tightened up.

REP. GILLAN deferred to **Ms. Heffelfinger**, who said the Commissioner of Political Practices would have to define it. **Ms. Hubbert** mentioned a sample ballot which had the state seal on it and had caused confusion among voters. **REP. GIBSON** asked if **REP. BROWN** could use the stationery with no seal. The sponsor replied, "If they are campaigning, they cannot use official stationery."

CHAIRMAN BARRETT asked **Ms. Hubbert** about Page 2, Lines 8-11, if it would make extra work for her office. **Ms. Hubbert** replied that they have to do that work anyway, it just adds a disclaimer on campaign literature.

{Tape: 1; Side: B; Approx. Time Counter: 21.9 - 41}

Closing by Sponsor:

REP. GILLAN said she needed to amend the bill to clarify it. It is not meant to be punitive, only to add accountability. It is bipartisan but may burden candidates, she concluded.

{Tape: 1; Side: B; Approx. Time Counter: 41 - 44}

HEARING ON HB 471

Sponsor: **REP. DAVE WANZENRIED, HD 68, Missoula**

Opening Statement by Sponsor:

REP. WANZENRIED said this bill is last Session's idea, because of the Department of Revenue's problems. Computers have limited life cycles; the bill prevents debt which extends beyond the life of the asset, he said. They need to institutionalize this in statute so that when their terms are limited, the next body will be guided. When agencies submit proposals for computer systems, they need to go through the Chief Information Officer, he testified.

{Tape: 1; Side: B; Approx. Time Counter: 44 - 47}

Proponents' Testimony:

Brian Wolf, State Chief Information Officer, said this bill is a "sanity check." Computer life-cycles used to be 15 plus years, but no longer, and hardware has a shorter life than software, he stated. He provided written testimony.

EXHIBIT (sth32a02)

{Tape: 1; Side: B; Approx. Time Counter: 47 - 50.3}

Opponents' Testimony: None

Informational Testimony:

Tory Hunthausen, Legislative Audit Division, was present to answer questions.

Questions from Committee Members and Responses:

REP. JACOBSON asked **Mr. Wolf** if the predicted operative life of computer systems is now three to five years, and if bonds should be limited to that length of time. **Mr. Wolf** answered that with hardware, life is probably four years. For software, it depends on whether it is off-the-shelf like PeopleSoft, used for the State Accounting Budgeting Human Resource System. Software gets updates or versions; if they build it themselves, it will last longer but still take "versioning," he said.

REP. HURWITZ asked if it would make sense to lease and thus get the upgrades. **Mr. Wolf** replied that was partly correct. An agreement with a third party makes them captive to future versions, which cost additional money. **REP. BROWN** asked sponsor if this is similar to buying a pickup which would last for 30 years, but paying off the loan for 60 years; he said it is. She asked how long the state is in debt for POINTS. He deferred to **Tory Hunthausen, Legislative Audit Division**, who said they used to run a 10-year bond, and she thought that was the case here.

{Tape: 1; Side: B; Approx. Time Counter: 50.3 - 58}

Closing by Sponsor:

REP. WANZENRIED said they had invested close to \$32 million into Department of Revenue's POINTS system, an expensive lesson.

{Tape: 1; Side: B; Approx. Time Counter: 58 - 62}

EXECUTIVE ACTION ON SB 195

CHAIRMAN BARRETT asked Ms. Heffelfinger about concerns they had in coordinating instructions on this bill with another bill. **Ms. Heffelfinger** said concerns were being addressed and the other bill number would be filled in when they had it.

Motion: **REP. BROWN** moved **SB 195 BE CONCURRED IN.**

Discussion:

REP. BROWN said she had asked the Bicentennial Commission how their funding is done and Mr. Blackwood had said \$200,000/yr. came from the bed-tax. She is not opposed to the idea, but does not want the bed-tax to be used for this structure in the Senate. The Commission gets funds from sale of license plates and should use that for this bas relief, not Travel Montana money.

CHAIRMAN BARRETT said they need amendments. **REP. YOUNKIN** said the sale of smaller limited editions was to fund this work. **REP. B. OLSON** agreed there would be no public funding. **CHAIRMAN BARRETT** referred to the bill's title. **REP. SMITH** said he thought the work would be a good idea, but they should not tell the Commission what to do, as they are already doing too much.

REP. BALLANTYNE asked if Mr. Blackwood was a proponent; the answer was yes. **REP. SMITH** asked if the entire Commission had concurred. **CHAIRMAN BARRETT** deferred to **Arnie Olson, Director of MHS**, who said he is on the Commission and they all want this legacy project at no cost to the state

Motion: **REP. BROWN** moved a **CONCEPTUAL AMENDMENT TO SPECIFY FUNDING WILL BE NONPUBLIC, AND to PUT THAT IN THE BILL'S TITLE.**

Discussion:

CHAIRMAN BARRETT questioned if they could change the title and asked **Ms. Heffelfinger**, who said they could if it is still within the bill's scope. **REP. YOUNKIN** said if they just changed Line 17 to delete "provide" and replace it with "secure private" funds, it would work. **REP. BROWN** asked **Mr. Arnie Olson**, who said he liked **REP. YOUNKIN'S** suggestion; federal money can be outside money but it is not private.

Motion/Vote: **REP. BROWN** moved **SB 195 AMENDMENTS (0019501.ash) TO REQUIRE THE COMMISSION FUND THE SCULPTURE THROUGH OUTSIDE FUNDING.** On a voice vote, motion carried 19-0. Voting by proxy were **REPS. ALAN OLSON, WAGMAN and LENHART.**

Motion/Vote: REP. BROWN moved SB 195 BE CONCURRED IN AS AMENDED. On a voice vote, motion carried 19-0. Voting by proxy were REPS. ALAN OLSON, WAGMAN and LENHART.

Motion/Vote: REP. JACOBSON moved SB 195 BE PLACED ON THE CONSENT CALENDAR. On a voice vote, motion carried 19-0. Voting by proxy were REPS. ALAN OLSON, WAGMAN and LENHART.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 15}

EXECUTIVE ACTION ON HB 277

Motion: REP. BALLANTYNE moved HB 277 DO PASS.

Discussion:

REP. JENT said the term-limit law was passed by Citizen Initiative, but this bill is a Legislative Initiative to put back and modify that. As legislators, they should not alter it to give themselves more time to serve, so he opposes it. REP. YOUNKIN countered that idea by saying it is giving voters a second chance to vote on the same initiative, to amend it. "We are not repealing it," she said. REP. LEHMAN said the public's attitudes had changed in 12 years. REP. SCHRUMPF agreed. REP. B. OLSON was against any term limits. CHAIRMAN BARRETT said that SEN. THOMAS had said it would not repeal, but amend. REP. YOUNKIN said SEN. THOMAS had alluded to another Senate Bill which would repeal limits and had passed in the Senate. Question was called.

Vote: On a voice vote, motion carried 17-2. Voting no were REPS. JENT and LENHART. Voting by proxy were REPS. LENHART, A. OLSON and WAGMAN.

{Tape: 2; Side: A; Approx. Time Counter: 15 - 20}

EXECUTIVE ACTION ON HB 471

Motion: REP. BROWN moved HB 471 DO PASS.

Discussion: REP. JACOBSON said this tightens up responsibilities of the position. He heard computer horror stories about long range obligations. This bill may not be perfect but is a step forward. REP. BROWN said the interim committee was totally resolved to codify this so that "when we're gone, they are all on the same page." REP. ROBERTS asked if the company did not want to honor their reputation. REP. JACOBSON said that they thought they did, but they had already been paid.

Vote: On a voice vote, motion carried 19-0. Voting by proxy were REPS. ALAN OLSON, WAGMAN and LENHART.

Motion: REP. BROWN moved HB 471 TO the CONSENT CALENDAR.

Discussion:

REP. BECKER said that maybe the House would want to hear about and debate it.

The motion was withdrawn.

{Tape: 2; Side: A; Approx. Time Counter: 20 - 25}

EXECUTIVE ACTION ON HB 513

Motion: REP. BARRETT moved HB 513 DO PASS.

Motion/Vote: REP. BARRETT moved HB 513 BE TABLED. Motion carried 19-0. Voting by proxy were REPS. ALAN OLSON, WAGMAN and JENT.

{Tape: 2; Side: A; Approx. Time Counter: 25 - 27}

ADJOURNMENT

Adjournment: 10:55 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth32aad)