

MINUTES

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

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 17, 2003
at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, 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. 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)
Rep. Pat Wagman (R)

Members Excused: Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Lehman (R)

Members Absent: None.

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 and Date Posted: HB 523, HB 532, HB 541, 2/11/2003
Executive Action: HB 190 DO PASS AS AMENDED;
HB 503 DO PASS

HEARING ON HB 532

Sponsor: REP. RON STOKER, HD 59, Bitterroot Valley

Opening Statement by Sponsor:

REP. STOKER said this is a housekeeping bill to make drainage districts uniform with fire and irrigation districts and to allow the administrator to cancel election by acclimation. The Secretary of State had no problems with it, and the fiscal note is zero.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 3}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. SMITH questioned the fiscal note and wondered if they did not show some profit in some years. The sponsor said the Clerk and Recorder's Office saw it as so minor, they could not estimate the cost of printing or sorting ballots on this. Acclimation is labor saving. REP. WAGMAN asked what a drainage district was. The sponsor said the Bitterroot is all one drainage. He was asked to bring this by Clerk and Recorder's Office of Ravalli County.

Closing by Sponsor: The sponsor closed.

{Tape: 1; Side: A; Approx. Time Counter: 3.8 - 3.9}

HEARING ON HB 541

Sponsor: REP. VERONICA SMALL-EASTMAN, HD 6

Opening Statement by Sponsor:

REP. SMALL-EASTMAN said this housekeeping bill was HB 625 in 1999. It assigns a new sunset date of 2005. It requires an analysis of how legislative bills affect the family as a whole, the costs and benefits of legislative actions on the poor, middle-income and higher-income families.

{Tape: 1; Side: A; Approx. Time Counter: 5.5 - 8.2}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. GIBSON asked if a raise for public employees would be in the family impact note. **The sponsor** wasn't sure. It addresses who benefits, and who bears the cost of bills. **REP. DICKENSON** asked for a sample of the report before executive action. **The sponsor** agreed; she said the presiding officer in each house requests this bill. **REP. HURWITZ** asked if it considered all government programs. **The sponsor** said it did.

CHAIRMAN BARRETT said the report is extensive; it took ten days to prepare and her committee last session voted not to request one. **CHAIRMAN BARRETT** asked the sponsor to find out the cost to the government to put one together, counting preparation time. She agreed to find out, and said it was six days in 1999.
{Tape: 1; Side: A; Approx. Time Counter: 8.2 - 13.3}

Closing by Sponsor: Sponsor closed.
{Tape: 1; Side: A; Approx. Time Counter: 13.3 - 13.5}

EXECUTIVE ACTION ON HB 190

Motion: **REP. YOUNKIN** moved **HB 190 DO PASS.**

Motion: **REP. YOUNKIN** moved **HB 190 BE AMENDED (019001.ash)**

Discussion:

REP. YOUNKIN said she reads this amendment as basically a new bill. She recapped Friday's discussion. Cleanup language and requirements to comply with HAVA comprise 95% of the bill. There are four areas of concern. HAVA required voter identification (ID) to register, but not to vote. The Clerk and Recorder's Office will send absentee ballots 30 days before, but the voter can still request it 75 days before. The Voter Information Pamphlet (VIP) will be ready sooner. For collection of absentee ballots, new section 29, the application for absentees must go directly to the election administrator, not through AARP or a party, to avoid appearance of impropriety, and so they won't get lost.

REP. HURWITZ asked if an amendment would tie the absentee ballot to the military voting bill. **REP. JENT** said the HAVA does not

limit the time of request for ballot. But HB 201 has a mailing limit of no less than 30 days for mailing military absentees. **REP. YOUNKIN** asked if that would extend the time to request ballots to 75 days. **REP. HURWITZ** said he has no preference, he is just trying to address AARP concerns. **REP. BECKER** said the military can fax or email or use the internet for absentee requests. **REP. JENT** agreed but said they cannot fax the ballot. He asked **Ms. Doggett** and she agreed. They may fax or internet the ballot only if they waive security. **REP. JACOBSON** said shortening the 45-day limit would affect snowbirds who leave about the end of September. **REP. GIBSON** said showing identification cards will slow down the line at the polls. **REP. BALLANTYNE** said he wanted an exception to the photo ID for the Hutterites.

{Tape: 1; Side: A; Approx. Time Counter: 13.5 - 25.8}

REP. LENHART asked why they need an ID if they are already registered. **REP. DICKENSON** said even if they can provisionally vote, they have to come back with the ID the next day. Montana has the highest per capita rate of those working session jobs. In rural communities, they must drive farther. **REP. WINDY BOY** said registration is linked to jury duty and it was a major obstacle in his campaign. **CHAIRMAN BARRETT** said that is the current law.

{Tape: 1; Side: A; Approx. Time Counter: 27 - 31.8}

REP. SCHRUMPF said most have driver's licenses. **REP. YOUNKIN** said Montana did not have huge problems like Florida, Louisiana and South Dakota. This bill is proactive, it upholds the integrity of the process. **REP. JENT** outlined his objections. The first is with the photo ID, which HAVA requires only for new or transfer voters. He also disagrees that everyone mail in a copy of an ID when voting absentee. It will cause problems when they mail the absentee ballot with no ID. He is neutral on the 45-day versus 30-day advance mailing, but if AARP wants it, he would go for it. On the third party issue, he agrees with the Clerk and Recorder's Office. Ballots could otherwise be lost. They should vote on amending the amendment.

REP. ROBERTS said the 45 days for snowbirds is a red herring. They would stay in touch to get their mail, and people are used to showing ID cards. **REP. SMITH** said they passed 20 bills in the last two sessions that take away driver licenses for infractions; they need a better system. **REP. BECKER** said they could move the bill and segregate disputed amendments. She opposes taking the third parties out. Seniors, union members, and the disabled have major absentee voting, she said.

{Tape: 1; Side: A; Approx. Time Counter: 31.8 - 40}

REP. B. OLSON said only a small segment of the population have no IDs. They could add language to allow other IDs. **REP. YOUNKIN** asked if the Hutterite colonies had social security cards. **REP. BALLANTYNE** said each can opt differently. **REP. SCHRUMPF** asked if they could research the colonies in their district. **REP. SMITH** said there is no photo on social security cards. **REP. YOUNKIN** indicated that Section 21 says utility bills are okay. She asked **Ms. Doggett**, if they did not have a photo ID, would a government document be okay. **Ms. Doggett** said a birth certificate counts, and that Lewis and Clark County will issue a wallet-sized certificate of registration. **Ms. Heffelfinger** said they could correct the language to say those other documents are okay.
{Tape: 1; Side: A; Approx. Time Counter: 40 - 41.5}

REP. BERNIE OLSON asked **Mr. Thielman** what ID that had no photo would qualify. He replied that for the statewide data base they could create an ID card and mail it to the colony for absentee ballot process, and that HAVA will help with money for this.
{Tape: 1; Side: A; Approx. Time Counter: 47.9 - 52.3}

REP. BECKER asked, if when voters return the absentee ballot, would it not have the same information as they showed to register **Mr. Thielman** said they needed the last four digits of the social security number or driver license number for all first time voters or if they register by mail. **REP. BALLANTYNE** said birth certificates do not have current address. **REP. WINDY BOY** said he is confused with all the handwritten changes on the amendment. **CHAIRMAN BARRETT** explained that the amendment replaces the old bill.
{Tape: 1; Side: A; Approx. Time Counter: 52.3 - 66}

REP. WAGMAN asked if the Secretary of State could create exceptions if voters wanted the ballot 45 days in advance. **REP. BECKER** asked **REP. YOUNKIN** how the provisional vote would work. **REP. YOUNKIN** said most likely they would not count that vote until the next day in a large county. **REP. BALLANTYNE** agrees with allowing provisional voting. **REP. WAGMAN** said mischief is possible with people voting as their elderly parents or grandparents. He agreed they needed to require IDs to register, but not at the polls. **REP. ALAN OLSON** said voter fraud nationwide is growing; this keeps it honest. They cannot purge dead people off the registered list for session years.

REP. DICKENSON asked about segregating the issues. **CHAIRMAN BARRETT** said they needed a **motion** and to clarify what they want. **REP. YOUNKIN** said they could segregate out sections. **CHAIRMAN BARRETT** said they cannot make a third motion until they vote or

rescind. **Ms. Heffelfinger** said they needed a substitute **motion** to segregate. **REP. YOUNKIN** said they can pass the amendment, then move to amend the bill and remove troublesome sections. **REP. GIBSON** asked, if they accepted it as amended, could they still change it. **CHAIRMAN BARRETT** said that they could change it here or on the floor.

Vote: On a roll call vote, HB 190 AMENDMENTS (019001.ash) **motion carried 10-9**. Voting no were **REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH, and WINDY BOY**. Voting by proxy were **REPS. BROWN and LEHMAN**.

Motion: **REP. A. OLSON** moved HB 190 DO PASS AS AMENDED (019001.ash).

Motion: **REP. GIBSON** moved to **CHANGE AMENDMENT BY TAKING OUT SECTION 7 ON PAGE 21**. **Ms. Heffelfinger** distributed this second amendment.

EXHIBIT (sth35a01)

Discussion:

REP. GIBSON asked if it takes out requirements for any ID. **Ms. Heffelfinger** said they must show photo ID only if not registered. **REP. JENT** said it reverts to HAVA requirements only. **REP. BALLANTYNE** said if they are registered, they don't need their ID to vote absentee. **Ms. Heffelfinger** said that was correct. **The sponsor** told a story about "dead folks" voting in Butte. This will protect the integrity. **REP. A. OLSON** agreed. **REP. JENT** challenged the idea of this going further if language was okay with Congress and the President. He said, "We don't have these problems in Montana."

Vote: On a roll call vote, motion for a second amendment failed 9-10. Voting aye were **REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY**. **REPS. BROWN and LEHMAN** voted by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 55}

Motion: **REP. DICKENSON** moved to **PUT THE TIME FOR ABSENTEE VOTING BACK TO 45 DAYS, DELETING THE 30 DAYS**.

Discussion:

REP. DICKENSON said to see Page 20, Section 27. **REP. A. OLSON** said they can request it 75 days in advance. He opposes the 30 days. **REP. JACOBSON** said if snowbirds miss their bills by a

month, they will get to them, but not the ballot. Sometimes they take the ballot in themselves. **REP. LENHART** said the 45 days worked well for years. **REP. YOUNKIN** said it was "at least 30 days." If ballots are ready, they will give them out more than 30 days in advance. **REP. ROBERTS** asked, if a candidate died, when another candidate could be put on the ballot. **REP. YOUNKIN** said if a candidate dies 75 days before the election, the ballots can't be changed.

Vote: On a roll call vote, amendment 3 failed 9-10. Voting aye were REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY. REPS. BROWN and LEHMAN voted by proxy.

Motion: REP. A. OLSON moved CONCEPTUAL AMENDMENT TO CHANGE THE MAILING OF THE VIP FROM 3 WEEKS TO 30 DAYS.

Discussion:

REP. OLSON said the voter should be informed when the ballots arrive.

Vote: On a voice vote, amendment 4 carried 19-0.

Motion: REP. BECKER moved a CONCEPTUAL AMENDMENT to STRIKE Section 29 and LEAVE THE LAW IN PLACE.

Discussion:

REP. YOUNKIN said it is not an inconvenience to put a ballot in the mail. REP. GIBSON said the League of Women Voters opposed this Section.

Vote: On a roll call vote, the 5th amendment failed 7-12. Voting aye were REPS BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY. REPS. BROWN and LEHMAN VOTED by proxy.

Motion/Vote: REP. YOUNKIN moved HB 190 DO PASS AS AMENDED. On a roll call vote, motion carried 10-9. Voting no were REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY. REPS. BROWN and LEHMAN voted by proxy.

HEARING ON HB 523

Sponsor: REP. JOE BALYEAT, HD 32

Opening Statement by Sponsor:

REP. BALYEAT said this will clean up campaign activities. It was co-sponsored by bipartisans. If campaign ads are new or modified in the last 10 days of the campaign, they must provide a copy to opponents. It also applies to third party and ballot ads. The media outlet must give the opponent equal time and space to respond, but at their own expense.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 7}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

Brad Martin, Director of Montana Democratic Party, said he may support the bill. He looks at enforcement, especially on issue ads, where no candidates' names are mentioned.

Questions from Committee Members and Responses:

REP. WINDY BOY asked about the fiscal note. **Ms. Heffelfinger** said it probably has a typographical error. **REP. LENHART** asked about a time problem where the weekly news comes out two days before election day which is too late to respond. He wanted to amend to say 10 days before, not within 10 days before. **The sponsor** agreed, but said that it would be a problem to say they must furnish the information before 10 days. Daily papers don't run ads on election day, or possibly even the day before. It would be a minor amendment. If it is a print advertisement, it must be faxed or e-mailed the same day it is submitted to the paper. **REP. LENHART** agreed with that.

REP. YOUNKIN asked when the information would have to be given to the opponent. His suggested amendment will say that a print advertisement must be transmitted the same day. For radio or TV ads, perhaps they don't need a time constraint. **REP. YOUNKIN** said she would work with him on the amendment. For broadcast ads, one must reserve a time slot in advance. For printed matter going door to door, he said he would get language to cover that. **REP. BALLANTYNE** asked about a situation where one cannot respond fast enough. **REP. HURWITZ** asked if there would be any retribution if one had carried it door to door the night before. **The sponsor** said his bill did not solve every problem, but mitigates many.

REP. ROBERTS asked if this would affect congressional elections. The sponsor said that is covered under federal law. **REP. B. OLSON** pointed out that if the opponent has unlimited funds, one must pay to respond to them. The **sponsor** said this bill will not address that. By making the candidate pay to respond, it prevents him from saying that everything his opponent said is an attack ad. **REP. OLSON** asked if the time limit would take away the advantage of surprise in the last few days. The sponsor said it would not apply to a letter to the editor of statements made at a debate, for example.

REP. WINDY BOY asked about the fiscal note assumptions. The **sponsor** said the assumption does not have much weight because they do not expect many violators. **REP. JACOBSON** suggested that "print media" be inserted on Line 21. The sponsor was amenable. **REP. GIBSON** asked about third-party expenditures. The **sponsor** said Line 19 covers parties and independent commissions. They could amend it to add 527 committees. If a third party does a new ad, they must provide a copy to any candidate mentioned in the ad. For an independent organization that supports a candidate, if the ad mentions his opponent, they need not send a notice to their candidate. But a campaign should not have any influence over 527 ads.

REP. BECKER asked for clarification. If it is for publication, the sponsor explained. It must be e-mailed or faxed the same day it is submitted to the media. If distributed door-to-door or by mail, it is the day it was mailed. **REP. A. OLSON** asked if it was when they had a proof. The sponsor said it is hard to verify when a proof was obtained. They need an independent means of verifying when it was printed.

{Tape: 2; Side: A; Approx. Time Counter: 34.6 - 40.6}

Closing by Sponsor:

REP. BALYEAT said is hard to define attack ads, so they don't have to try. With this bill, there is no hardship on the media to sell more ads. There is no down side. It could be amended if there are concerns. Next session could change it if needed.

{Tape: 2; Side: A; Approx. Time Counter: 40.6 - 44.1}

REP. WAGMAN stepped out of the room for a few moments.

EXECUTIVE ACTION ON HB 503

Discussion: **REP. YOUNKIN** said with this bill, one can run on more than one ticket, and votes are added.

Motion: **REP. YOUNKIN** moved **HB 503 DO PASS.**

Discussion:

REP. GIBSON said this committee had a bill limiting running for more than one party. **Ms. Heffelfinger** said this bill would coordinate with HB 25 and that bill would be void. HB 190 would limit to one office. **REP. BALLANTYNE** asked about a scenario where you could be the only one on the ballot. **REP. YOUNKIN** said you would have to win both primaries to be the only name on the ballot, and would have to file as a candidate in each party.

REP. DICKENSON said Minnesota ruled out fusion, the courts upheld, and the Democrats there are the Democratic Farm Labor party. She said fusion takes pressure off candidates but simplifies too much. She was not sure if she favors the bill.

REP. B. OLSON said he is ambivalent about whom that candidate would represent. **REP. A. OLSON** said they would have to make a choice of caucus when they get to the Legislature.

REP. BALYEAT, the sponsor, said that if they win two primaries now, they have to decide which party to run with. **REP. DICKENSON** said she wants figures about turnout. The sponsor said New York's turnout is similar to Montana's, but it may be caused by extraneous factors.

Vote: On a roll call vote, HB 503 DO PASS carried 11-8. Voting no were REPS. JENT, BECKER, GIBSON, HURWITZ, JACOBSON, LENHART, SMITH and WINDY BOY. Voting by proxy were REPS LEHMAN, BROWN and WAGMAN.

{Tape: 2; Side: A; Approx. Time Counter: 44.1 - 55}

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth35aad)