

Exhibit No. 4Date 3-11-2011SB325 Majority Vote Requirement (Sen. Joe Balyeat) to SB 325

Mr. Chair, members of the broad-minded State Admin committee, for the record I'm Sen. Joe Balyeat, representing SD34 in Gallatin & Broadwater Counties. I'm the former State Chairman of Montanans for Better Government; and that position is germane to the bill I bring you today – SB 325. The basic tenet of democracy is – “Majority Rules”. Yet, in Montana, unless we pass this bill, often majority doesn't rule. This bill would change MT election law to require a runoff election if no candidate gets a majority of the vote in a given race. You'll note from one of the articles I passed out that many, if not most, southern states utilize this majority vote system, as well as other states across the country.

Last session, for the first time ever, we had a third party represented in MT's legislature. I assure you– it won't be the last. I'm sponsoring SB325 because I believe it is a creative solution to the problems caused by the increasing presence of third parties on MT's political landscape. I also believe this change would lead to higher voter turnout, higher voter enthusiasm, and higher respect for elected officials of all parties.

Presently in MT, third parties are consigned to nothing more than the role of spoiler – the best they can ever hope to do is spoil the election for one of the major party candidates. For instance, a Green Party or New Party candidate might steal just enough votes away to hand a normally Democrat seat to a Republican, or a Constitution Party candidate might steal just enough votes to hand a normally Republican district to a Democrat. By my count, that's exactly what happened about 17 times in elections between 01 and 07.

The consequence of this situation isn't good for anybody – 1) It isn't good for the people of the district because they end up being represented by a legislator who didn't even get 50% of the vote. 2) Its not good for the major party which normally represents the district, because they've lost a seat to the other party which, but for MT's convoluted election law, that party would've retained in it's column. 3) Its not good for the legislator who won either; because he's constantly hamstrung by the fact that he “only represents less than half the people in his district”, despite the fact that he may have gotten more than 50% in a head-to-head race. 4) Because the third party candidate doesn't end up representing the district anyway, its not good for third parties in MT either; because third parties are then forever consigned to a negative stigma – the spoiler role. That when you cast a third party vote you're not just doing a neutral thing – throwing your vote away, but you may even be doing a negative thing – spoiling the results of a particular legislative or statewide race.

In the past, I've carried legislation called “fusion”; which was a more complicated approach to solving this same problem. **SB325 is much simpler, it simply requires a runoff election between the top two finishers. That runoff could either be a subsequent election at a later date, or it could be done as “Instant Runoff Voting”, where voters only go to the polls once, but indicate both their first choice and second choice votes.**

The best way to explain this issue is to use an example which many of you may be familiar with – Rep. Jim “Landslide” Whitaker. This particular example involves a Constitution Party candidate spoiling the election for a Republican, but I urge those of you on the Democrat side of the aisle to see that this exact same situation can and does occur with Democrat legislators who have a Green Party spoiler. Landslide Whitaker was up for re-election in '02. A Constitutionalist filed against him, as well as a Democrat. Normally you'd expect an incumbent to win. But the Constitutionalist drew 200+ votes away (mostly from Republicans); and the Democrat won the seat with less than 50% of the vote. I would contend that situation was good for neither the

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district nor the Democrat. The district was represented by someone who didn't reflect the majority of district voters; and, the Democrat was hamstrung throughout his tenure and lost his seat in '04. And nobody will ever know how the '02 election would've turned out in a straight head-to-head match up. It's possible the Democrat would've run that race outright and would've had a solid base to perform his job and get re-elected.

If this majority vote law would've been in effect back then; Landslide Whitaker and his Democratic opponent would've had a runoff election without the Constitution party candidate. We would've then had a two-way head-to-head contest between the Democrat and the Republican. This bill doesn't say whether that race would be a runoff election at a later date, or an instant head-to-head runoff, where people who voted for the third place candidate, also (at the same election) voted for their second choice, which was subsequently used to count the head-to-head race between the Democrat and the Republican candidates.

Again, this same principle would also work with Democrats who have Green Party or New Party opposition. In fact, I would contend that the only possible way that you, as Democrat incumbents, could possibly lose your seats is if you had Greens or New Party candidates file against you and spoil your race. So one way you could look at this bill is incumbency insurance.

Since this bill is a constitutional amendment, our passage will simply allow the voters of Montana to make the final decision. I'm asking you, even if you're not sure on this, to please vote for it and give MT voters that opportunity, and give us all the chance for an honest and thorough debate on the proposal.

I urge the committee, even if this idea is new to you, don't just dismiss it out of hand. Give it a close look, and ask me lots of questions.

I'll sit and listen to proponents and opponents. I ask that a written copy of my testimony be entered in the record, and I reserve the right to close.