

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on March 22, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary
Transcribed by Lindsey Grovom

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

Committee Business Summary:

Hearing & Date Posted: SB 88, 3/8/2005; SB 302, 3/8/2005;
SB 500, 3/8/2005; SB 384, 3/8/2005
Executive Action: HB 785

HEARING ON SB 88

Opening Statement by Sponsor:

SEN. CAROLYN SQUIRES (D), SD 48, opened the hearing on **SB 88**, Permanent absentee voter registration.

{Tape: 1; Side: A; Approx. Time Counter: 3 - 11}

Proponents' Testimony:

Vickie Zeier, Missoula County Clerk and Recorder's Office, believed the bill would have a significant impact on voters that are home-bound. She thought it would increase voter participation.

Robert Throssell, Montana Association of Clerks and Recorders, thought that before the county paid the full amount of sending out the ballot, a postcard should be sent out to confirm the address.

Elaine Gravely, Secretary of State's Office, stated that 20% of the population voted by absentee last election. She anticipated this number to increase.

Joy Bruck, AARP, spoke in support of SB 88 because she felt the impact would benefit the elderly and aging citizens. Ms. Bruck provided written testimony.

EXHIBIT(sth63a01)

Terry Kendrick, Montana Women Vote, urged support of the bill.

Jeanne Souvigney, Montana Conservation Voters, stood in support of SB 88.

Duane Winslow, Election Administrator, Yellowstone County, mentioned that on top of the elderly and disabled, the traveling salesmen and truck drivers have to be taken into consideration.

Jessica Grennan, Associated Students of the University of Montana, supported the bill.

Brad Martin, Montana Democratic Party, stated that it was more important that people vote, rather than how they voted.

Darrel Holzer, Montana AFL-CIO, stood in support of the bill.

John Prinkki, Carbon County Commissioner, Montana Association of Counties, supported SB 88.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 1; Side: A; Approx. Time Counter: 11 - 23}

Questions from Committee Members and Responses:

REP. DICKENSON asked Elaine Gravely if her office would be the one to design the form that someone would sign if they wanted to be on the permanent absentee voting list. **Ms. Gravely** replied that was correct. **REP. DICKENSON** asked if would be possible on that form to put a notification of address change in bold print. **Ms. Gravely** thought that was a good idea.

REP. DICKENSON asked Joy Bruck if it would be possible for AARP to do some sort of an outreach into facilities where older people tend to move to let them know of the need to register for absentee voting. **Ms. Bruck** replied that they would look into it and see what they could do.

REP. BROWN wondered how many other states had a permanent absentee voter registration. **Ms. Gravely** could not answer that.

REP. MALCOLM inquired about the procedure that would take place. **Ms. Gravely** replied that if a person failed to respond to the postcard indicating an intention to vote, the person's name would automatically be removed from the list.

REP. ANDERSEN asked Ms. Gravely if the sending of the postcards would be done in such a manner that they could be forwarded in the case of the person having changed their address. **Ms. Gravely** affirmed that would be the case for up to six months.

REP. OLSON referred to Page 2, Lines 5 and 6, and wondered if the Sponsor would consider the form if the post card was not returned. **SENATOR SQUIRES** replied that there had been a compromise in deciding that if the postcard was not returned, the ballot would be sent to the address. **REP. OLSON** followed up by asking what the opposition had been to that. The **Sponsor** answered that it was once again putting the responsibility on the voter to mail that postcard. **REP. OLSON** gave an example on how he could see many wasted absentee ballots in the case of a person's death. **SENATOR SQUIRES** replied that if the absentee ballot was not turned in, the person would be removed from the absentee list.

Closing by Sponsor:

The Sponsor closed by encouraging the Committee to look at the bill through the eyes of the disabled and elderly.

{Tape: 1; Side: A; Approx. Time Counter: 23 - 30}

HEARING ON SB 302**Opening Statement by Sponsor:**

SEN. JON ELLINGSON (D), SD 49, opened the hearing on **SB 302**, Generally revise election laws. He believed the bill would help the election process work better, encourage voter participation and help the democracy run efficiently for everyone. **SEN. ELLINGSON** went through the bill with the Committee and explained the process of the proposed legislation.

{Tape: 1; Side: B; Approx. Time Counter: 10 - 20}

Proponents' Testimony:

John Prinkki, Montana Association of Counties, rose in support of SB 302.

Robert Throssell, Montana Association of Clerks and Records, remarked that the work that went into SB 302 was really making sure that everyone who voted in the state was treated the same.

Terry Kendrick, Montana Women Vote, stated that their goal was to have a well-functioning democracy in which every voter voted and every vote was counted.

Elaine Gravely, Secretary of State's Office, rose in support of the bill.

Vicki Zeier, Missoula County Clerk and Records Office, said the highlight of the bill for the election industry was late registration. Late registration did provide some leeway with voters who did not make the 30-day deadline. She thought that everyone needed to pay attention to the auditing systems and regularly audit the equipment.

{Tape: 1; Side: B; Approx. Time Counter: 20 - 30}

Duane Winslow, Election Administrator Yellowstone County, thought the bill was a good source of legislation and appreciated everyone who worked together on it.

Jeanne Souvigney, Montana Conservation Voters, stated that her goal was to make the election process more efficient as well as effective. She thought that the changes would make that process more efficient.

Joy Bruck, AARP, believed the bill would ease the voting process for everyone including the elderly and the aging. She went on to say that aging Montanans believe that voting is an extremely important right and whatever reforms can be made to make voting more accessible is a very good thing. Ms. Bruck submitted written testimony.

[EXHIBIT](#)(sth63a02)

Sarah Busey, League of Women Voters in Montana, submitted written testimony.

[EXHIBIT](#)(sth63a03)

Brad Martin, Montana Democratic Party, rose in support of SB 302. He stated in short, that the bill increased voter's access to the polls, maintained integrity and would make it easier for Montanans to vote.

Anita Roessmann, Montana Advocacy Program, urged support of the bill.

Jessica Grennan, Associated Students of the University of Montana, supported the bill as it allowed people to register to vote until election day. She also claimed that it would restore integrity in the elections.

Darrell Holzer, Montana AFL-CIO, stood in strong support of SB 302.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. BROWN admitted to Elaine Gravely that she was getting a little nervous as she heard mention of 600 to 700 new machines that needed to be tested. She referred to 13-17-212 and asked what penalty would ensue when testing was not being properly done and the elector would have to take up the angst of waiting for the results. **REP. BROWN** followed up saying that if this was in statute it really didn't matter, because it was their own integrity and there was no penalty. **Ms. Gravely** wasn't quite sure

of the situation REP. BROWN was referring to. **REP. BROWN** explained the situation in Flathead County to which she was referring.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 15}

REP. JENT referred to performance certification and asked if the bill added increased supervision by the Secretary of State. **Mr. Gravely** replied that it was adding more testing. **REP. JENT** discussed the mandatory Digital Recording Equipment (DREs) at each polling place - that they must be tested and certified before placement no more than 30 days before the election.

REP. JACOBSON stated that he suspects everyone on the Committee had handed out absentee forms. When he had done so, some people requested that he come pick up their filled-out absentee forms. He asked the Sponsor if that was addressed in the bill. **SENATOR ELLINGSON** deferred the question to Mr. Winslow. **Mr. Winslow** believed it was now possible for a representative to deliver ballots.

In reference to the Flathead County ordeal, **REP. JONES** asked Mr. Throssell if there was anyone checking up so as to prevent future occurrences. **Mr. Throssell** remarked that there was extensive oversight from the Secretary of State's Office as to how elections were handled. **REP. JONES** followed up by asking if someone from the Secretary of State's Office actually showed up if there was a problem in one of the counties. **Mr. Throssell** answered that the Secretary of State's Office offers ongoing training. If a problem were to arise, it would be the subject for the next training session.

REP. DICKENSON asked the Sponsor how REP. WISEMAN'S bill would be coordinated with SB 302. **SEN. ELLINGSON** responded that he had been shown the coordinating language and he still needed to process it.

Sheri Heffelfinger spoke to the coordinating instructions and to what needed to be done with the bills as far as coordinating language.

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

REP. ANDERSEN asked Elaine Gravely how she would make sure that the ballots remain secretive. **Ms. Gravely** responded that ear phones were used.

Closing by Sponsor:

The Sponsor closed and stated that elected officials are elected to do the will of the people. This can only be accomplished if the integrity of the systems are protected.

{Tape: 2; Side: A; Approx. Time Counter: 20 - 30}

HEARING ON SB 500

Opening Statement by Sponsor:

SEN. JOHN COBB (R), SD 9, opened the hearing on **SB 500**, Revise election laws to facilitate voting by disabled persons. This bill would allow:

- 1) a person with a disability to use a fingerprint or mark in place of a signature in all election documents.
- 2) a designated agent to sign a fingerprint or identifying mark.
- 3) a requirement for all newly improved polling places to be ADA-accessible.
- 4) a designated agent to collect applications for absentee ballots for disabled electors.

(REPRESENTATIVE JENT left the meeting.)

Proponents' Testimony:

Anita Roessmann, Montana Advocacy Program, remarked that it was by monitoring the process that problems had been found which were addressed in the legislation.

Elaine Gravely, Secretary of State's office, rose in support of SB 500. She noted that during the last election, \$250,000 were used to make the polls ADA-accessible.

Robert Throssell, Montana Association of Clerks and Recorders, stated that the election officials worked very hard in finding accessible polling places and much of that work was going on now.

Joy Bruck, AARP, spoke in support of the bill as it was often not easy for elderly and disabled Montanans to meet normal requirements of voting.

Brad Martin, Montana Democratic Party, rose in support of SB 500.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. BROWN asked Elaine Gravely how many polling places across the state could not find an ADA-acceptable location. **Ms. Gravely** did not believe any had difficulty.

SEN. COBB made mention that he would like to verify that this information was correct.

REP. HENDRICK asked the Sponsor if there was any cost to the local governments. **SEN. COBB** did not think so.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 10}

(REPRESENTATIVE JENT returned to the meeting.)

Closing by Sponsor:

The Sponsor closed.

HEARING ON SB 384

Opening Statement by Sponsor:

SEN. KELLY GEBHARDT (R), SD 23, opened the hearing on **SB 384**, Clarify authority of Secretary of State to adopt rules to implement duties.

Proponents' Testimony:

Jean Branscum, Secretary of State's Office, stated that in the statute, the Secretary of State had been given the authority to prescribe administrative rules beforehand. This helped those who used the administrative rules to go from agency to agency and understand how those were laid out. Currently, that rule-making authority was not given and the bill would clarify that they be given that rule-making authority.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. BROWN asked Jean Branscum if they were already doing this, why there was a need for the bill. **Ms. Branscum** replied that this would verify for the legislature what was happening.

REP. BERNIE OLSON referred to Page 3, Lines 1 & 2 and asked Ms. Branscum if the wording of "clerk" should be replaced with Secretary of State's Office. **Ms. Branscum** replied that it was accurately written. **REP. OLSON** said that it didn't look like the Secretary of State's office was even mentioned and perhaps it should be.

REP. JENT remarked that the administrative rules of Montana were published and could be retrieved at various places. He asked Ms. Branscum how they got there and how the provision related to that. **Ms. Branscum** answered that they were mandated in statute to provide copies of the administrative rules. A record was kept of all books and titles sent out.

{Tape: 2; Side: B; Approx. Time Counter: 10 - 21}

Closing by Sponsor:

The Sponsor closed.

EXECUTIVE ACTION ON HB 785

Motion: **REP. BROWN** moved that HB 785 DO PASS.

Motion: **REP. BROWN** moved that HB 785 BE AMENDED.

Discussion:

Sheri Heffelfinger explained the amendment to HB 785.
EXHIBIT(sth63a04)

CHAIRMAN JENT had not been present at the hearing and asked for an idea of who was pushing the piece of legislation.

REP. BROWN had Jeff Brandt from IT services recorded as a proponent.

CHAIRMAN JENT asked for Sheri Heffelfinger to explain the technicality of the bill.

{Tape: 2; Side: B; Approx. Time Counter: 22 - 30}

Sheri Heffelfinger explained that the Subsection of the bill was Section 1, Sub-Section 2. She expounded on the confidentiality concerns which had been raised.

REP. DICKENSON stated that it made sense. She asked which department had the responsibility of helping the other departments. **Sheri Heffelfinger** replied that would be the Department of Administration and the Information Technology Division.

Vote: Motion carried unanimously by voice vote with **REP. CAFERRO** voting by proxy.

Motion/Vote: **REP. JACOBSON** moved that HB 785 DO PASS AS AMENDED. Motion failed 7-9 by roll call vote with **REP. SMALL-EASTMAN**, **REP. CAFERRO**, **REP. DICKENSON**, **REP. EATON**, **REP. HAMILTON**, **REP. HENRY**, and **REP. JACOBSON** voting aye. **REP. CAFERRO** voted by proxy.

Motion: **REP. BROWN** moved to reverse the vote and table HB 785. Motion carried.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 11}

DNRC PRESENTATION

The DNRC gave a presentation on the transferring of State properties to other entities.

Sheri Heffelfinger passed out a handout that was essentially the reason for the presentation: Statute 77-2-351. The Committee's role would be that of consultation. They need not approve or disapprove of the transfer, but rather learn about what was taking place and provide feedback.

EXHIBIT(sth63a05)

REP. BROWN stated her surprise at having the presentation in State Administration rather than in Natural Resources. **Sheri Heffelfinger** replied that it was actually a transfer between the Department of Corrections and Health and Human Services and not necessarily DNRC.

Valerie Wilson, Staff Attorney, Department of Corrections (DOC), stated that it was the Department of Corrections that owned the property and it was not school trust land that they obtained from the Department of Institutions.

Valerie Wilson, DOC, gave a presentation on the use of the property. She said that the idea behind the transfers under 77-2-351 was that they were going to be transferred without monetary consideration, but with the binding commitment that the properties would be used for the public good.

{Tape: 3; Side: A; Approx. Time Counter: 11 - 20}

Terri Minnow, Jefferson County Fairboard, said that many volunteers have invested a great deal of time, labor, money, and "sweat equity" into the Jefferson County Recreation Park. She described the many events held at the grounds.

John Leary, City Manager of City of Boulder, stated that there are about 20 acres of usable ground available. He mentioned that the current system was taxed in its capacity and that, in the next one to ten years, they faced a significant need to improve and upgrade the facility. Without the 20 acres of useful ground, they would need to find a large parcel of land and start from scratch. The cost of this to the taxpayers would be enormous.

Chuck Notbohm, Jefferson County Commissioner, said that Jefferson County was given a 99-year lease on the property for the fairgrounds, but with the change of administration it went down to a five year lease. The lease was lost and because of that, they've been reluctant to put money out as they could lose the land. He would like the Committee to give a favorable recommendation that would help the County.

Harold Stepper, Jefferson County Planner, stated that the members of the community were incredibly supportive of the property transfer.

T.J. Eyer, Principal of Jefferson High School, said that the other portion of the parcel that they were asking to be transferred which has not been used for many years. He would like to use the property to enhance services to the students.

Jan Ward, Department of Natural Resources, Trust Land Management Division, stated that she presented this proposal on behalf of the Department of Corrections.

{Tape: 3; Side: A; Approx. Time Counter: 20 - 30}

Questions from the Committee:

REP. JENT verified with Valerie Wilson that the board in Jefferson County is concerned with one piece of property. **Valerie Wilson** responded that there were three contiguous properties involved. **REP. JENT** confirmed that of those was going to the fairgrounds, one was going to the high school and the other was going to the City of Boulder for the wastewater pipeline. **Valerie Wilson** mentioned another six-acre parcel that was contiguous to Jefferson County's shop at the moment.

REP. JENT asked if they were all fee-simple transfers. **Valerie Wilson** replied that was right.

REP. JACOBSON asked Valerie Wilson if there was any money exchange under the lease agreement. **Ms. Wilson** said that Jefferson County pays \$25 a year for the six-acre parcel; the fee to the high school district is \$1 a year and the fairgrounds is \$25 a year.

REP. BROWN inquired of Valerie Wilson why all of a sudden the department and the groups present, are coming together after hearing mention of it being tried for 20 years. **Ms. Wilson** answered that the administration for Corrections had been in favor of it since 1995. She said there was a process it all had to go through and what was decided was that it would progress in stages.

REP. BROWN asked, with the mention of swapping of land with the City, how many parcels the taxpayers have had to purchase in the area. **Ms. Wilson** replied that they all had been transferred under Statute 351. **REP. BROWN** asked if it was usual to give the land without payment. **Ms. Wilson** said that with her experience with the 351 transfers, this was the typical way that they were invested. She explained that if it was a private entity doing the purchasing, it would have to go through the appraisal process and would have to be purchased for value.

REP. BROWN referred the question to **Jan Ward**, who answered that the JLDC portion was sold for \$13,510 at a public auction because it was not a public entity. Everything else had been deeded to either the Department of Transportation or the County. She provided examples of easements being provided without compensation and she believed that the compensation was considered public purpose. The property would be used for a public purpose in perpetuity and if it ceased to be used as that, it would come back under State ownership.

REP. BROWN asked Jan Ward, in reference to perpetuity, who would visit the issue years later and decide whether it was public or private. **Ms. Ward** assumed that would fall under her position.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 13}

REP. BERNIE OLSON asked Jan Ward why the fairgrounds didn't go over to the section line. **Ms. Ward** replied that farmers don't necessarily follow the section lines when making roads into their fields. She understood that had happened in this case. **Harold Stepper** explained the issue. **REP. OLSON** asked Harold Stepper to clarify who owned the portion from the road to the section line. **Mr. Stepper** said the State owned it. He explained that the county road was clearly an easement rather than a right of way.

REP. JENT asked if the lease was an automatic renewal or if it could be transferred at the termination of the lease. **Ms. Ward** said that the expiration of the lease was negotiable.

REP. BROWN asked if would be possible for the County to lease it to whomever was currently leasing it from the State. **Ms. Ward** answered that was not possible.

REP. DICKENSON noted her concern over the sewage lagoons and asked John Leary what his view was in the case of a massive snowstorm. **Mr. Leary** explained why that would not be an issue.

(CHAIRMAN JENT left the meeting.)

REP. BROWN asked if Boulder was growing as a city. **Mr. Leary** replied that growth was slightly less than that of Jefferson County.

{Tape: 3; Side: B; Approx. Time Counter: 13 - 20}

REP. ANDERSEN asked if people were able to use this portion, if there would be a charge to those people. **Ms. Minnow** responded that there was a lease agreement for anyone who used the grounds. The proceeds would go back into the County, offsetting taxes used for maintenance and upgrades.

REP. BROWN wondered if there could be a covenant on the property to address the concerns. **Valerie Wilson** hadn't thought through that but said it was something that could be addressed in the transfer.

Chuck Notbohm said that the funds fell back into paying for the maintenance. **REP. BROWN** asked if he would be opposed to a

covenant on the property to ensure that it didn't go into a general fund. **Mr. Notbohm** said he would not.

Valerie Wilson closed the presentation on the Department of Natural Resources.

ADJOURNMENT

Adjournment: 10:55 A.M.

REP. LARRY JENT, Chairman

Lindsey Grovom, Transcriptionist

LJ/lg

Additional Exhibits:

EXHIBIT ([sth63aad0.PDF](#))