



State Administration and Veterans' Affairs Interim Committee

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57th Montana Legislature

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SHERI HEFFELFINGER
RESEARCH ANALYST
DAVID NISS, STAFF ATTORNEY
LOIS O'CONNOR, SECRETARY

January 24, 2002

MINUTES

Room 317, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

COMMITTEE MEMBERS PRESENT

Rep. Walters
Rep. Jent
Sen. Bohlinger
Sen. Toole

STAFF PRESENT

Sheri Heffelfinger, Research Analyst
Miko Owa, Secretary

VISITORS

Agenda (ATTACHMENT #1)
Visitors' list (ATTACHMENT #2)

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 8:16 by Rep. Walters. Roll call was noted (ATTACHMENT #3) with all members present.

SECRETARY OF STATE'S OFFICE

Bob Brown, Secretary of State, presented a Power Point presentation entitled *Federal and State Election Reform* (EXHIBIT #1). Sec. Brown reviewed election trends in Montana which include a higher voter turnout than the national average, outstanding election administrators, and a low number of ballots that are over-voted or under-voted. Sec. Brown also reviewed provisional voting and absentee ballot voting in Montana. He next reviewed the pending federal legislation Help America Vote Act of 2001 (HR 3295) and the Equal Protection of Voting Rights

Act of 2001 (S. 565). Sec. Brown said that Montana is moving forward with election reform regardless of the outcome of federal legislative action.

Janice Doggett, Attorney, Secretary of State's Office, continued with the Power Point presentation and reviewed for the Subcommittee the expanding partnership between the Secretary of State's Office and school officials. Recent activities included a presentation by the Secretary of State's Office at the Montana Conference on Educational Leadership (MCEL), helping school officials understand mail ballot options, and ongoing assistance with school election issues.

Jason Hillman, Deputy Chief of Staff, Secretary of State's Office, provided an update on the voter registration database (EXHIBIT #2) being developed for the Secretary of State's Office. Specifically he said the database:

- Simplifies identification and correction of inaccurate and missing information
- Allows input of data by election officials online
- Ensures standardization of data format
- Reduces inflated voter rolls
- Will provide for faster election results on the Internet
- Is the first complete Montana voter database

Tim Peterson, Senior Manager, KPMG Consulting, demonstrated how the voter registration database works.

Sen. Bohlinger asked Mr. Peterson if political party affiliation is captured. Mr. Peterson responded no, but that it could be collected.

Rep. Jent commented that local political parties maintain constituent information regarding political party affiliation. However, he would not support a voter registration system where constituents would be required to register their political affiliation.

Rep. Walters asked about federal funding. Sec. Brown said that he could not share any specific details regarding funding. However, he said HR 3295 has no specific mandates while S. 565 includes some federal mandates that could have fiscal consequences.

Rep. Jent asked if the Ney-Hoyer bill (HR 3295) has changed significantly from November. Sec. Brown commented that his office could provide the Subcommittee with the latest federal bill drafts.

Elaine Gravely, Secretary of State's Office, spoke to the Subcommittee about increasing registration and turnout among voters aged 18-24. She said that the Sec. Brown has been visiting high schools across Montana encouraging voter registration. Ms. Gravely concluded by stating the project will culminate in a comprehensive plan designed to engage and motivate Montana's youth.

COMMON CAUSE

Ms. Heffelfinger provided a briefing on a report from Common Cause and its evaluation of

Montana's voting reforms (EXHIBIT #3). Specifically she addressed the fact that Montana received a "D" for not having a statewide voter registration system; and not allowing provisional voting. However, Montana received a "smiley face" for its policy to reenfranchise ex-felons; and a neutral grade for a low residual vote rate (rate of uncounted votes).

Sec. Brown commented that his office was not contacted by Common Cause and therefore did not know where they received their information because there has been a voter registration data base for years. He said that there have also been improvements in absentee voting which is a type of provisional voting. He stated that Montana has responded to Common Causes's criticisms.

Sen. Bohlinger commented that the issues raised by Common Cause have been addressed by the Secretary of State's Office. He said that it would be surprising if Montana received anything less than an "A" rating next year.

STAFF PRESENTATION

Sheri Heffelfinger, Research Analyst, Legislative Services Division, reviewed for the Subcommittee a draft bill (LC00#2) on issues related to voting system technology (EXHIBIT #4). She said the bill updates the definition of what a voting machine or device is. The bill also clarifies recounts of ballots that are counted with the aid of voting systems. Ms. Heffelfinger said there is also a section of the bill relating to how the Secretary of State's office approves voting systems, sets uniform standards for determining a valid vote, and adopts rules to provide uniform training of election administrators. Regarding school elections, the bill simply states that the voting systems utilized by the school district have to be approved by the Secretary of State's Office.

PANEL DISCUSSION

Ms. Heffelfinger lead a panel discussion regarding election training issues. Members of the panel included:

- Elaine Gravely, Secretary of State's Office
- Duane Winslow, Election Administrator, Yellowstone County
- Gwyn Anderson, Business Manager, Browning Public Schools
- Lynda Brannon, Montana Association of School Business Officials (MASBO)
- Vickie Zeier, Clerk and Recorder, Missoula County
- Paulette DeHart, Clerk & Recorder, Lewis and Clark County
- Janice Doggett, Secretary of State's Office

Ms. Heffelfinger asked what training is currently provided.

Ms. Gravely said the Secretary of State's Office provides a two-day workshop every two years in Helena for election administrators and workers. In addition, she said they publish an election judges handbook and are currently creating an election training video.

Ms. Doggett added that an election presentation was requested by MASBO and was presented at the MCEL Conference, which was very successful.

Ms. Heffelfinger asked for opening comments from each panelist regarding training issues.

Mr. Winslow said that Montana requires certification of election judges every two years through a two hour class. However, the training does not include school election judges as statute does not require school election judges to be certified. He stated that two years between each training session is too long.

Ms. Anderson said that school districts do need training and are very concerned that elections are administered properly. In addition, she stated that there was definitely a lack of assistance from the Secretary of State's Office and the Office of Public Instruction (OPI) when election questions come up. The Secretary of State's Office says to call OPI and OPI says to call the Secretary of State's Office. As a group the Montana Association of Business Officials has written a school election manual and OPI is in the process of updating the manual. Ms. Anderson said that obtaining election judges is a difficulty for school districts as well.

Ms. Brannon concurred with Ms. Anderson and stated that standard election rules would help alleviate some of the problems.

Ms. Zeier said that her county does obtain training through the Secretary of State's Office and the county trains the election judges as well. She said that standardization of training between counties would be beneficial. She concurred with Mr. Winslow's statement that training should be more frequent.

Ms. DeHart said that following the training with the Secretary of State, the county trains the election judges as well. Election judges must stay until the polls close.

Ms. Brannon said that training for schools from the state or counties is sporadic and she would like to see more training opportunities.

Sen. Toole asked about school elections and if the county receives questions from the public about the school elections. Ms. DeHart responded that there is some confusion because counties and schools do not use the same polling place. Mr. Winslow concurred. Sen. Toole then asked if school districts cross county lines. The panel responded that they did.

Sen. Bohlinger said that the bill draft does not address the issues of confusion that have been raised by the panel and he would like to discuss those issues further before moving on to additional questions.

Sen. Toole concurred and said he would be very interested in trying to create a uniform system for where people vote and for training election judges.

Sen. Bohlinger asked how many school districts cross county lines. Ms. Doggett responded that the boundary issue is very complex, but the practical question is uniformity in training and process. Mr. Winslow concurred with Ms. Doggett.

Sen. Toole asked if precincts cross county lines and whether a system could be devised to utilize uniform polling places according to precinct boundaries.

Ms. Zeier responded that polling places change and there is some confusion when more than one election is taking place on the same day.

Ms. DeHart said that Title 20 restricts the type of polling places schools can use. However, she would like to make the polling places in precincts stationary, but that would mean changing Title 20.

Ms. Brannon said that voting by precinct would raise the issue of having constituents drive to another school district to vote.

Ms. Anderson said that since there has been a change in the law, some of the elections can take place by acclamation.

Sen. Bohlinger asked if the panel could provide anything that would simplify the process. Ms. Zeier said that in Missoula county, she runs all of the elections and there are very few problems. She acknowledged the boundary line issues, and said it would take time for the state to adjust the boundary lines so that elections could be more easily administered.

Rep. Jent said that there are constitutional implications of reapportionment, if you have precincts that you are realigning, because legislative districts are generally composed of a certain number of precincts.

Sen. Toole concurred with Rep. Jent and that the Subcommittee should not move forward with the reapportionment issue at this time. Sen. Toole asked Ms. Doggett if school districts are reapportioned. Ms. Doggett responded that school districts are local entities. Sen. Toole asked if school districts had different standards. Ms. Doggett responded yes.

Ms. Anderson responded that a school funding study is looking at a county wide mill rather than a district mill. She said that if that should happen, mill elections could be held on a county wide basis.

Sen. Toole asked about training for election judges, recruitment, and pay as an incentive to get more election judges. Specifically, he asked if there would be more election volunteers if public employees were given the day off.

Mr. Winslow responded that he does not see a problem with the idea.

Sen. Bohlinger asked how difficult it is to find people who have an interest in this public service and if the legislature should consider increasing wages. Mr. Winslow stated that he would like to see wages left to the county's discretion. However, he said that recruitment is a large problem for every county. Sen. Bohlinger asked what solution Mr. Winslow offers to solve this problem. Mr. Winslow said that his county has begun using mailing lists to solicit volunteers and that the county has become much more creative at keeping their level of volunteerism consistent.

Sen. Bohlinger asked how rural counties handle the situation. Ms. Anderson said that there are problems with school elections. She said the problem is that the law states what the wage will be for election judges. Ms. Brannon added that election judges must also be residents of the voting area and that can be problematic.

Sen. Toole asked about high school students participating in the process. Ms. Doggett responded that high school students are used in some counties as part of a government class.

Sen. Toole asked if there is a legal issue with a minor being an election judge. Ms. Anderson responded that you must be 18 to be registered to vote. Ms. Brannon added that a certification process may be put in place, but as a voter she would have difficulty having a high school student telling her that she could not vote. Sen. Toole said that high school students could be hired as runners to help on election night.

Rep. Walters asked if election judges could work half days. Ms. DeHart said that a polling person can work a short shift, but they cannot return to the polling place again. She also said that once the counting process begins election judges are not allowed to leave.

PUBLIC COMMENT

Mary Jo Olson, League of Women Voters, commented that there were problems in the last election for voters who registered at the Department of Motor Vehicles and were not allowed the opportunity to vote provisionally. However, she said that great strides have been made in the state-wide database system. Ms. Olson concluded by saying that other states include school election or special election information on the same ballot.

Janice Hoppes, Clerk & Recorder, Pondera County, said that finding election judges is very difficult in rural communities. She also said that it would be very difficult to combine elections as previously suggested. She would like to see more mail ballot elections which would alleviate a lot of their problems. However, she acknowledges that a mail ballot election would be more expensive than paper ballots when administering school elections.

EXECUTIVE WORK SESSION

Ms. Heffelfinger presented to the Subcommittee a bill draft for discussion purposes which would eliminate punchcard systems (EXHIBIT #5). Ms. Heffelfinger also reviewed a letter from Fallon County asking the Subcommittee not to ban punchcards (EXHIBIT #7). Following, Ms. Heffelfinger asked the Subcommittee for their recommendations and staff direction.

Rep. Jent reviewed for the Subcommittee the Ney-Hoyer bill (EXHIBIT #6) and said that if federal funds are available, then punchcard systems should be replaced. He also said that if federal funds do not cover the entire cost of replacing the machines then the state should provide the additional funds necessary. Rep. Jent asked the Secretary of State's Office to comment on how funds would be distributed to counties should they become available. Ms. Doggett responded that the county can apply for the federal funds and pass a budget amendment. Rep. Jent asked if there was a way that the states can participate. Ms. Doggett said that the Secretary of State's office could apply for the federal funds since the legislature can't, but the Secretary of State can't do a budget amendment. Ms. Doggett said that the Secretary of State's Office could look into that issue further.

Sen. Bohlinger asked what would happen if a county did not want to stop using the punchcard system. Sen. Bohlinger said that he did not like the provision in the bill draft allowing counties to

continue using punchcard systems if they were instituted before July 1, 2004.

Rep. Walters said that the letter from the Lincoln County Clerk and Recorder stated that the county switched to the optical scan system and saved money. He said that if funds could be secured he would support the bill prohibiting the punchcard system.

Ms. Heffelfinger clarified for Sen. Bohlinger that if the subsection "a" of the bill was removed, which states that "the jurisdiction conducting the election was using the punch card ballot system prior to July 1, 2004", then any county that was not using punchcards before could move to the punchcard system.

Ms. Heffelfinger noted for the Subcommittee that the second bill draft regarding voting system technologies, which she reviewed earlier, also needed to be discussed by the Subcommittee.

Sen. Toole commented that he would like language added to the bill so counties would not have to pay minimum wage, the residency requirement could be eliminated, and high school students could assist at the polls.

After much discussion, the Subcommittee determined that their focus and charge is to look at voting technology and they would address Sen. Toole's additional issues when the full committee convenes.

Ms. Heffelfinger said that she will continue with the work that the Subcommittee has begun and will coordinate with the Chair on the agenda for the next meeting if they had comments on the two bill drafts. She also encouraged the public to communicate with her prior to the next meeting.

ADJOURNMENT

The meeting adjourned at 12:03 p.m.

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