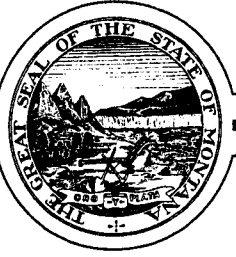


COMMISSIONER OF  
POLITICAL PRACTICES



COPY



STATE OF MONTANA

DENNIS UNSWORTH  
COMMISSIONER  
TELEPHONE (406) 444-2942  
FAX (406) 444-1643

1205 EIGHTH AVENUE  
PO BOX 202401  
HELENA, MONTANA 59620-2401  
[www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

September 26, 2008

Frank A. Pocos  
Pocos Law Office  
510 2<sup>nd</sup> Street Suite C  
Havre MT 59501

Subject: Your letter regarding dismissal of Charles Grant's complaint

Mr. Pocos, I don't have jurisdiction over the statutes in title 13, chapter 10, Montana Code Annotated. For that reason I cannot offer an opinion on that issue or advise you on where to take the complaint. While I understand Mr Grant's assertion that something needs to be done, I must work within the confines the law places on us.

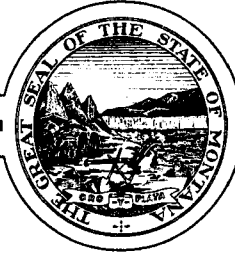
§ 13-35-301, MCA, the Code of Fair Campaign Practices, is within the Commissioner's jurisdiction. However, the Commissioner's role with respect to the Code is limited to preparing a form that sets forth the Code and providing each candidate with an opportunity to sign the form and thereby subscribe to the Code. The Commissioner is granted no authority to take any action if a candidate is alleged to have violated the Code. (See Matter of Complaint Against John Vincent, Summary of Facts and Statement of Findings (2008); Matter of Complaint Against Brian Close, et al., Summary of Facts and Statement of Findings (2005). Both are available on our website.)

Enclosed is a letter I've sent today to Senator Smith that results from discussions between the Secretary of State's staff and myself. While we're necessarily mindful of the limits on our respective authority, it's our hope that this communication will be helpful.

Dennis Unsworth  
Commissioner of Political Practices

Enclosure

COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

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COMMISSIONER  
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PO BOX 202401  
HELENA, MONTANA 59620-2401  
[www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

September 26, 2008

Senator Frank Smith  
PO Box 729  
Poplar MT 59255

Subject: Your campaign for Senate as an Independent candidate

Senator, the enclosed complaint alleges that your campaign as an Independent candidate is misleading voters, and is contrary to Montana law.

After carefully reviewing the complaint, I have concluded that I don't have authority to investigate the allegations, as explained more fully in a letter to the complainant, Charles Grant, a copy of which is also enclosed.

I have been advised by the office of the Secretary of State that based on the legal filing deadlines set forth in the statutes, and the fact that you ran as a Democrat in the primary election and are now running as a write-in candidate, you cannot now run as an independent candidate.

The Secretary of State's office has also advised Mr. Grant and this office that they have no investigative authority and no authority over campaign activities of any candidate.

Although neither I nor the Secretary of State has authority to address the matters raised in the complaint filed by Mr. Grant, I urge you to consider the legal requirements regarding your candidacy discussed above as you conduct your campaign.

A handwritten signature in black ink, appearing to read "Dennis Unsworth".

Dennis Unsworth  
Commissioner of Political Practices

Enclosures

Copies: Charles Grant  
Frank Picos  
Janice Doggett, Office of Secretary of State

Cert. mail

**PIOCOS LAW OFFICE**  
**Frank A. Pioscos, Attorney at Law**  
510 2<sup>nd</sup> Street, Suite C  
Havre, Montana 59501  
406-265-5294

RECEIVED  
COMMISSIONER OF  
POLITICAL PRACTICES  
2008 SEP 22 A 9:35

September 16, 2008

Dennis Unsworth  
Commissioner of Political Practices  
1205 Eighth Avenue  
P.O. Box 202401  
Helena, MT 59620-2401

Re: Complaint Received September 4, 2008; Frank Smith

Dear Mr. Unsworth,

On September 2, 2008, Mr. Grant wrote a letter to your office regarding a complaint against the candidacy of Frank Smith for SD 16. You responded in a letter dated September 11, 2008. In that letter you cite insufficient allegations and lack of jurisdiction. In response, it is undisputed that in the June 3, 2008, primary Frank Smith ran as a Democrat. In the enclosed literature he is now running as an Independent candidate in the general election. You also stated that the Commissioner of Political Practices lacked jurisdiction. As a result of your letter, Mr. Grant wrote a letter on September 15, 2008, to Secretary of State Brad Johnson.

On September 19, 2008, Mr. Grant received a letter from Lisa Kimmet of the Montana Secretary of State's Office. See letter attached. In that letter she states that is "possible" that the word "Independent" is "being misused" and that "there is a legal difference between a write in candidate and an Independent candidate." I believe these statements are disingenuous as it is clear from his own campaign literature that Frank Smith is running as both. See campaign literature attached.

Mr. Grant would like to know who has jurisdiction over this matter? As neither your office nor the Montana Secretary of State's Office claim jurisdiction over this matter.

Section 13-35-301, M.C.A., states in pertinent part:

"I will not use campaign material of any sort which misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which aim at creating or exploiting doubts, without justification, as to the loyalty and patriotism of my opposition."

It is clear from Mr. Smith's campaign literature that he is campaigning as an "Independent" candidate. This misrepresents, distorts and falsifies the facts as he cannot run as an Independent candidate as this violates Sections 13-10-501, 13-10-503, and 13-10-507, M.C.A.

Section 13-10-507, M.C.A. states:

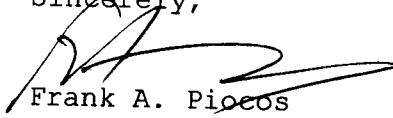
"(1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of his nomination petition.

(2) For the purposes of subsection (1), "associated with a political party" means having run for office as a partisan candidate or having held an office with a political party designation."

It is my understanding that Mr. Smith has complied with the statutory requirements of write-in candidates, specifically, 13-10-211(1), M.C.A. and 13-10-211, M.C.A. However, according to Sections 13-10-501, M.C.A, and 13-10-503, M.C.A, and the Montana Secretary State's website "Independent candidates must have filed at the same time other candidates filed for office and, therefore, **they cannot run in the general election** if they did not file by the March 2008 candidate filing deadline."

Based upon the foregoing, Mr. Smith can neither run nor campaign in the general election as an Independent candidate.

Sincerely,



Frank A. Picoos  
Attorney at Law

enclosures

COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

DENNIS UNSWORTH  
COMMISSIONER  
TELEPHONE (406) 444-2942  
FAX (406) 444-1643

1205 EIGHTH AVENUE  
PO BOX 202401  
HELENA, MONTANA 59620-2401  
[www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

September 11, 2008

Charles Grant  
1172 Cleveland Ave  
Havre MT 59501

Subject: Complaint received September 4, 2008: Frank Smith

Mr. Grant, I carefully reviewed the complaint you filed against Frank Smith.

The complaint alleges that Mr. Smith violated § 13-10-507, MCA, which provides that a person seeking office as an independent candidate may not be associated with a political party for one year prior to the submission of a nomination petition. Your complaint also alleges that Mr. Smith violated § 13-10-201, MCA, which prohibits a candidate from filing a declaration for more than one party's nomination. Finally, your complaint alleges that Mr. Smith violated § 13-35-207, MCA, which prohibits various activities that are classified as "deceptive election practices."

In the area of campaign finance and practices, my jurisdiction is limited to the provisions of Title 13, chapters 35 and 37, Montana Code Annotated. (See § 13-37-111, MCA.) I have no jurisdiction over alleged violations of §§ 13-10-201 and 13-10-507, MCA.

With regard to your contention that Mr. Smith violated § 13-35-207, MCA, by engaging in deceptive elections practices, your complaint does not allege sufficient facts to support a determination that it states a potential violation of the statute.

To be valid, a complaint must describe in detail an alleged violation, and cite the specific statute or rule within my jurisdiction that is alleged to have been violated. (ARM 44.10.307(2).) For the reasons discussed above, I am dismissing the complaint based on ARM 44.10.307(3)(a):

... [N]o investigation shall be required if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction.

I regret that I am not able to provide additional assistance.

A handwritten signature in black ink, appearing to read "Dennis Unsworth".

Dennis Unsworth  
Commissioner of Political Practices

September 15, 2008

Brad Johnson  
Secretary of State  
Elections and Government Services  
P.O. Box 202801  
State Capitol, Room 260 – 1301 6<sup>th</sup> Avenue  
Helena, Montana 59620-2801

Dear Secretary Johnson,

I write this complaint with anticipation, regret and disappointment. Also included with this letter are documents of exhibits that back up my allegation.

According to your website, Senator Frank J. Smith filed for re-election on January 23<sup>rd</sup>, 2008 as a Democrat (Senator Smith has been a Democrat for the last 4 years in SD16). During the June 3<sup>rd</sup> primary election, Senator Smith lost his bid for re-election in the democrat primary by his challenger. Mr. Smith has now attempted to run as an independent candidate through the write-in process. My understanding of this process is that write-in candidates do not declare party affiliation, according to your website, the verbatim statement is as follows:

Independent candidates must have filed at the same time other candidates filed for office and, therefore, they cannot run in the general election if they did not file by the March 2008 candidate filing deadline. 13-10-501, 13-10-503, MCA.

According to Exhibits "A", it's clear that Senator Smith has declared himself as an Independent candidate for the seat he held as a Democrat, and was distributing the campaign brochure as late as Labor Day weekend. Therefore violating section 13-10-507 MCA. Section 13-10-507 MCA states:

**13-10-507. Independent candidates – association with political parties not allowed.**

(1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of his nomination petition.

(2) For purposes of subsection (1), "associated with a political party" means having run for office as a partisan candidate or having held an office with a political party designation.

According to these documents, Exhibits "B" are the MCA codes in their entirety, which means other possible code violations may exist. **MCA 13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. (3) Each candidate shall sign the declaration and send with it the required filing fee... (4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, and elector may not file a declaration for more than one party's nomination.... **MCA 13-25-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person: (3) knowingly causes a false statement, certificate, or

return of any kind to be signed; (4) falsely makes a declaration or certificate of nomination; (5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false.

In closing, I submit to you the plea of swift judgment on this complaint, so the democratic election practices of our great country continues with the utmost integrity.

Sincerely,

Charles Grant  
1172 Cleveland Avenue  
Havre, Montana -59501-  
406-262-9623 (home)

CC: Lisa Kimmet, Elections and Government Services Deputy 406-444-5376  
Alan Miller, Elections Specialist 406-444-5346

# MONTANA SECRETARY OF STATE

*Brad Johnson*

Elections & Government Services  
(406) 444-5376  
lkimmet@mt.gov



Montana State Capitol  
2<sup>nd</sup> Floor, Room 260  
P.O. Box 202801  
Helena, MT 59620-2801

Charles Grant  
1172 Cleveland Avenue  
Havre, Montana 59501

Dear Mr. Grant:

I wanted to let you know that we have received your complaint about the write-in candidacy of Senator Frank Smith.

Based on the evidence you provide, it appears at first glance to be possible that the word "Independent" is being misused, as there is a legal difference between a write in candidate and an Independent candidate. But to know for sure whether that is the case would require an investigation.

Therefore, we are forwarding your complaint to the appropriate investigative authorities. Although the law gives this office no power to launch investigations, we do have the ability to refer complaints from citizens to agencies that can launch them. Our standard procedure in cases like this is to act immediately to get the information to the appropriate investigative authority.

In this case, that authority is the Commissioner of Political Practices. I hope that you will hear from him shortly.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Kimmet".

Lisa Kimmet  
Deputy for Elections  
Montana Secretary of State

Cc: Office of Commissioner of Political Practices





Montana's Official State Website

SECRETARY OF STATE *Brad Johnson***Montana Secretary of State**
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**RESOURCES...**

- For Voters
- For Candidates
- For Researchers
- Notary Publics
- About the Bureau

**SECRETARY OF STATE**

- Official Duties
- About Brad Johnson
- News Digest
- Citizen Involvement

**THE STATE SEAL**

## 2008 Election Information

### Candidate filings

### Official 2008 State Primary Election Results

- State
  - Excel
  - PDF
- Legislative
  - Excel
  - PDF

**Tuesday, November 4, 2008 – GENERAL ELECTION**

- **2008 Election Calendar**

### Write-in candidates

A person may file a declaration of intent to run as a write-in for office in any election. **13-10-211(1)**, MCA. This includes the general election.

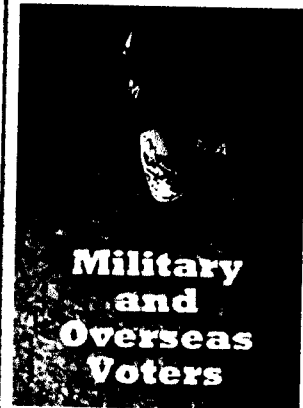
For the general election these must be filed by September 26, 2008 and the filing fee must be paid. **13-10-211**, MCA.

### Independent candidates

Independent candidates must have filed at the same time other candidates filed for office and, therefore, they cannot run in the general election if they did not file by the March 2008 candidate filing deadline. **13-10-501, 13-10-503**, MCA.

**Voter Registration by County** updated  
8/26/08  
639,985 Registered Voters

Montana's Total Population in 2007:  
957,861



**About Elections and Government Services**

### Ballot Issues

- **How To Propose a Ballot Issue**
- **2008 Ballot Issues**

### Candidate Information

- **How to File for Office**
- **2008 Offices on the Ballot**
- **2008 County Candidates**
- **Fees**
- **Forms**
- **How to File as a Write-in Candidate**
- **Write-in Filing Form**

### Commissioner of Political Practices

- **NEW! Online Campaign Tracker**

**Tuesday, October 7, 2008** - Late Voter  
Registration Begins

- **Register to Vote**
- **Request an Absentee Ballot**
- **Frequently Asked Questions**

**Elections and Government Services**  
**Deputy**  
**Lisa Kimmet**  
**(406) 444-5376**

- General election laws: Title 13 of the Montana Code Annotated.
- School elections-- including those for trustees, mill levies, and bond issues: Chapter 20, Title 20, MCA

**Bowen Greenwood**  
*All media inquiries*  
**(406) 444-2807**

**Stephanie Hess**  
*Elections Specialist*  
*Military and*  
*Overseas Voting*  
*Specialist*  
**(406) 444-4289**

**Alan Miller**  
*Elections Specialist*  
**(406) 444-5346**

**Shannon Stevens**  
*Legislative Specialist*  
**(406) 444-4732**

**Justus Wendland**  
*HAVA Specialist*  
**(406) 444-7911**

If you have questions about voting or elections or want to report voter fraud, contact Elections and Government Services at **(406) 444-4732**, email **[soselection@mt.gov](mailto:soselection@mt.gov)**, or call the Secretary of State's toll-free voter hotline below.

**Toll-free Voter Hotline: 1-888-884-VOTE (8683)**

**Voter Resources**

**Voting Information | Absent Military or Overseas  
Ballot Technology | Voter Turnout History | Official Election  
Results**

**Election Resources**

**Candidate Information | Election Calendar | Ballot Issues  
Centralized Voter File | Political Parties | Term Limits  
File for Office | Write-in Candidates**

**HAVA | Citizen Involvement**

Elections and Government Services Division • P.O. Box 202801 • Helena, MT 59620-2801  
State Capitol, Room 260 • 1301 6th Avenue • Helena, MT 59620  
(406) 444-4732 • **[soselection@mt.gov](mailto:soselection@mt.gov)** • Fax (406) 444-2023

## Candidate Filing Dates

**Tuesday, January 22, 2008** – First day to file

**Thursday, March 20, 2008** – Last day to file

**Thursday, March 13, 2008** – Deadline to file Nomination Petitions from Independent and Minor Party Candidates with the **county election administrator**.

**Friday, September 26, 2008** – Last day to file as Write-In Candidate for the November 4 General Election

## Candidate Information and Forms

- [Offices on the 2008 Ballot](#)
- [Candidate Filing Fees](#)
- [Candidate Filing Forms](#)
- [Online Candidate Filing](#)

## 2008 Ballot Issues

### Qualified ballot issues:

- [C-44](#)
- [LR-118](#)
- [I-155](#)

### Proposed ballot issues:

- [CI-99](#)
- [CI-100](#)
- [CI-101](#)
- [I-155](#)
- [I-156](#)
- [I-157](#)
- [I-158](#)
- [I-159](#)

## Voter Information

**Monday, May 5, 2008** – Regular Voter Registration Closed for Primary Election

**Tuesday, May 6, 2008** – Late Voter Registration Began

**Monday, October 6, 2008** – Regular Voter Registration Closes for General Election

## County Information

- [County Election Administrators \(PDF\)](#)
- [County Websites](#)
- [County Voting Systems](#)

## Elector Information

- [Register to Vote](#)
- [Apply for an Absentee Ballot](#)
- [Military and Overseas Voters](#)
- [Voting Information](#)
- [Citizen Involvement](#)
- [2008 Voter Information Pamphlet Coming October 2008](#)

## Help America Vote Act

## Legislative Information

- [2007 Senate Roster](#)
- [2007 House of Representatives Roster](#)
- [Term Limits](#)

## Other

- [Administrative Rules with Amendments](#)
- [Official Election Results History](#)
- [Political Parties](#)
- [Voter Turnout History](#)

## Montana Election Laws

State's toll-free voter hotline below.

**Toll-free Voter Hotline: 1-888-884-VOTE (8848)**

**Voting Information | Absent Military or Overseas  
Ballot Technology | Voter Turnout History | Official Elec  
Results**

**Election Resources  
Candidate Information | Election Calendar | Ballot Issu  
Centralized Voter File | Political Parties | Term Limit  
File for Office | Write-in Candidates**

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Elections and Government Services Division • P.O. Box 202801 • Helena, MT 59620-28  
State Capitol, Room 260 • 1301 6th Avenue • Helena, MT 59620  
(406) 444-4732 • [soselection@mt.gov](mailto:soselection@mt.gov) • Fax (406) 444-2023

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**WRITE-IN**  
FILL IN THE OVAL

*Elect*

**Frank J**

**SMITH**

**SENATE DISTRICT**

081221608

*Re Elect* **Frank J**

**SMITH**

**SENATE DISTRICT 6**

07/20/2008

# VOTE FRANK SMITH

## Independent Senate District 16

FAIR HONEST CONCERNED  
SOMEONE YOU CAN COUNT ON!

### Committees I Served:

Agriculture, Livestock And Irrigation, Business Labor Economics Affairs, Highways And Transportation, And Legislative Administration

### Bills Passed:

- SB 29: Establish Robert R. Ewing Jr. Memorial Highway
- SB 30: Allow Combination Purple Heart And Disabled Veteran License Plate
- SB 95: Revise Defibrillator Law
- SB 369: Revise PSC Jurisdiction Over Rural Cooperatives
- SJ 2: Study D.U.I Laws
- SJ 13: Resolution For Interim Study On Value Added Agriculture
- SJ 30: Study Employee Drug Testing
- SB 86: Montana Definitions For Indian Child Welfare Act
- SB 91: Allocation Of Special Wild Buffalo Licenses To Montana Indian Tribes
- SB 107: Clarify Conditions Requiring Agriculture Chemical Groundwater Management Plans.
- SB 264: Prohibit Arrest Quotas For Peace Officers
- SB 282: Revise Racial Profiling Law
- SB 333: Revise Laws Relating To School Retirement Costs From Certain Federal Funds (Impact Aide)
- HB 21: Designate Wolf Point As Montana Cowboy Hall Of Fame Site
- HB 69: Revise Laws Relating To Notaries Public
- HB 293: Prohibit Racial Profiling
- HJ 9: Urge Prescription Drug Cost Control
- HJ 11: Urge Federal Increase In Impact Aid For School

## About Me

I am a Poplar High School graduate. I have four children: Virgil, Theresa, Mary and Zann. I have served 6 years on the Northeast Montana Hospital Advisory Board, 9 years as a Boy Scout Leader, 10 years as an EMT trainer and ambulance driver, Red Cross instructor, Served 5 years in the U.S. Marine Force as a crash rescue (firefighter) specialist in Alaska and California, retrained into aerial firefighting at the University of Colorado. I spent the rest of my life in Massachusetts, went to Dawson College for Law Enforcement and worked 7 years in various police departments.

Paid For By:

Hazel Cantrell,

Treasurer

P.O. Box 127

Wolf Point, MT

59201

Contact me at:

Frank J. Smith

P.O. Box 729

Poplar, MT 59255

406-768-3841 or

406-768-7321 (cell)

# Write In

● AND FILL IN THE OVAL



## FRANK J. SMITH

STATE SENATE DIST. 16

INDEPENDENT

*Someone You Can Count On*



[HOME](#)[CONTACT](#)[ABOUT US](#)[ARTICLES](#)[Volume 2006](#)[Volume 2007](#)[Volume 2008](#)[FORUMS](#)[Fort Peck Journal](#)[Online](#)[This Week's Issue](#)[Article Database](#)[General Discussion](#)[Fort Peck Politics](#)[MEMBERS](#)[Register](#)[Reset Lost Password](#)**LAW AND JUSTICE :: Deputy Public Safety Director position controversy****DP\$**

Login Name:

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**Article Database      Volume 2008      Issue 28****Smith to challenge Windy Boy again in general election****News****Volume: 2008, Issue: 28****Written by Richard Peterson****2008-07-10**

State Sen. Frank Smith threw his hat back into the political ring to again challenge Rep. Jonathan Windy Boy of Box Elder, who defeated Smith in the June Democratic primary.

Smith filed with the state election office two weeks ago and received his confirmation letter last week.

"Everybody is asking me to run again," Smith said Wednesday. "There are also about 10 different organizations -- co-ops, law enforcement groups and oil companies -- who've asked me to run again."

Smith also said a lot of people in the agriculture business also encouraged him to run again. "I felt I was very effective as a senator and I believe I can (win)," he said.

Contacted Wednesday, Windy Boy said although the voters in Senate District 16 have already spoken, it's Smith's constitutional right to run. Smith's reemergence into the race won't change Windy Boy's campaign, he said.

"We'll keep going, our plans haven't changed," Windy Boy said. "I felt I was very effective representing House District 32 and being a senator in District 16 would only enhance what I'm doing now, and that will expand to Roosevelt County and the Fort Peck Tribes."

In the November general election, Smith will run as an independent and will rely on voters to write in his name on the ballot and also check the box next to the name.

Smith was seeking his second term as Democratic state senator from District 16, which stretches from Brockton to Rocky Boy and includes three Indian reservations and six counties.

Smith said if he's elected as an independent, he wouldn't be as restricted by term limits if he'd been elected as a Democrat.

After a busy campaign season, Windy Boy squeaked out a win over Smith by a 1,424 to 1,289 margin. The final results weren't available until the wee hours of morning.

In that race, Windy Boy captured Blaine, Choteau and Hill counties by significant margins and Smith won in Phillips, Valley and Roosevelt. In Roosevelt, Smith easily won by a 714-386 margin.

Before his election to the senate in 2004, Smith served three terms in the state House of Representatives. During the 2007 session, Smith served as chairman of the Legislative Administration committee; the vice chair of the agriculture, livestock and irrigation committee; and is a member of the highways and transportation and the business, labor and economic committees.

Smith is also a former Fort Peck tribal councilman.

Windy Boy, presently elected to the Chippewa Cree Tribal Council, was elected to serve in state House District 32 in 2002. Since that time he served on the state tribal relations committee, the agriculture committee and business and labor.

**Article Database      Volume 2008      Issue 28**

# Smith Will Run As An Independent Against Primary Winner Windy Boy

By Kayla Matzke

After almost a decade of representing the people along the Hi-Line, Frank Smith is fighting for his seat in Helena.

After a tight primary race that ended in defeat against Jonathan Windy Boy, Smith has decided to challenge him again in November. Smith is running to keep his seat in Senate District 16. SD16 includes Roosevelt, Valley, Hill, Phillips, Blaine and Chouteau counties. Smith lost to Windy Boy by only 135 votes in the June's Democratic primary. Smith carried Roosevelt County with 64 percent of votes.

Smith will run as a write-in, independent candidate in November.

Windy Boy acknowledged that he hasn't gained the confidence and support of everyone on the Fort Peck Reservation or in Roosevelt County, but he said that he is hoping to gain the people's trust by November.

Smith said he is running because there are many people calling asking him to run again. Smith said veteran and medical groups, along with the Sheriffs and Peace Officers Association, have all asked him to run.

"I think I've got a good chance of winning," Smith said.

Regardless if Smith wins or not in November, Windy Boy said that the Democratic party has already spoken. If Smith wants to try to run again, that's his prerogative, Windy Boy said.

With no candidate running, Republicans from around the region have called Smith and told him that he has their vote, Smith said.

Windy Boy said he doesn't have time to sit back and worry about Smith and about beefing up his campaign against him.

Windy Boy said he is not going to let Smith distract

him and is continuing to work on the federally-assisted water projects in the region. He said it's imperative to take the water projects to the governor's desk [to ensure the funding before the Governor] writes his proposed budget for the next fiscal year this fall.

There is a small window of opportunity, Windy Boy said, for the water projects, including the Dry Prairie/Fort Peck Rural Water Project, to make it to the governor before he releases the budget.

It would be an injustice to the people for him to sit back and strategize about beating Smith while putting the water projects on the backburner along with other things, Windy Boy said.

A lot of times, Windy Boy said, advocacy for the people along the Hi-Line gets overshadowed by the bigger cities in Montana. It's important to have a strong voice to represent the people, Windy Boy said.

If Smith wins, he says

he wants to continue working on medical and veteran issues. "We need more bonuses for veterans," he said.

Smith figures he has gained more supporters after he lost in the primary.

If he doesn't win in November, Smith said he will take two years off and move to Las Vegas, Nev., to run his business. Then, he would come back and run for the state House of Representatives.

Smith previously served two sessions in the Senate and three in the House.

Before running for Senate District 16, Windy Boy served District 32 in the state's House of Representatives since 2002.

Since he initially didn't run as an independent, Smith's name won't be on the ballot. Voters will have to write in his name and color in the oval, he said.

"I'm not a Democrat or a Republican," Smith said. "I'm a northeastern Montanan."

## Tribes Don't Want Swift Fox On Trapping List, Yet

By Kayla Matzke

The request by state biologists who proposed that trappers be able to take 20 swift foxes per year were recently denied by the Montana Fish, Wildlife and Parks Commission.

On June 12, Les Bighorn, a wildlife technician with Fort Peck Game and Fish Department, convinced the board otherwise, claiming that the swift fox population isn't stable just yet.

there was an established family of six on the reservation they didn't know about.

Instead of a reintroduction, tribal wildlife officials planned a translocation. They took 10 foxes and built mesh pens so the foxes could be climatized into their new location. After a week or so, the foxes were released with collars on them.

So far, Bighorn says he can count the number of

lating of swift fox in Montana is very sufficient to allow for a harvest.

Rauscher was one of the biologists who made the proposal that trappers be allowed to take 20 foxes. The trapping of the foxes would only be allowed in region six of the state, which is most of northeastern Montana.

Rauscher said he has been monitoring the swift fox population for years and his data proves that

the swift fox go if they unintentionally trap one, he said. If the commission would have passed the proposal, those trappers could keep the swift fox, Rauscher said.

Swift foxes have been removed from the endangered species list in the U.S., but Canada classifies them as extirpated — no longer existing in Canada but living elsewhere. Bighorn said the swift fox is a species of concern in Montana.

**Baker, Mary**

**From:** Unsworth, Dennis  
**Sent:** Thursday, September 18, 2008 10:27 AM  
**To:** Kimmet, Lisa; Baker, Mary  
**Subject:** RE: Frank Smith campaign  
**Attachments:** Grant dismissal letter.doc

Lisa, I sent you a copy of the dismissal letter yesterday via deadhead mail. It may not have gone out till this morning. I'll attach the MS Word file to this letter so you can see the response.

The letter to Grant was mailed the 11th so no doubt they've received it.

I can only guess that what's going on is they're thinking since I don't have jurisdiction over 13-10-201 and 507, then you do.

Neither Jim Scheier or I could find or even speculate on a connection to 13-35-207, which is the only statute Grant mentions that we do have jurisdiction for. So with that, the complaint was dismissed.

Mary talked to Frank Smith this morning and will send all those materials to him today. I believe she pointed out to him on the phone that he might want to look at the referenced statutes with respect to his campaign materials.

If you and/or Janice want to brainstorm some other ideas, I can see about possibly getting Jim Scheier on a conference call.

-- Dennis

---

**From:** Kimmet, Lisa  
**Sent:** Thursday, September 18, 2008 10:08 AM  
**To:** Unsworth, Dennis; Baker, Mary  
**Subject:** Frank Smith campaign

Hi Dennis and Mary,

Good job at SAVA on Monday. Those are always interesting hearings.

I've had several contacts with Jonathon Windy Boy and Charles Grant about the campaign of Frank Smith. Frank Smith filed a Declaration of Intent to Run as a Write-in Candidate with this office. A write-in candidate does not file with any party designation, because they have not been nominated as a partisan candidate. As I understand it, Frank Smith is now stating in his campaign materials that he is an "Independent Candidate". He is not an independent candidate, he is a write-in candidate. An Independent candidate must have filed by March 20. As far as this office is concerned, Frank Smith followed the correct procedure to be a write-in candidate. His campaign material, however, appears to be misleading. Is this something that your office investigates and follows up on? I thought it was, but both Jonathon Windy Boy and Charles Grant stated that they were directed to our office to file their complaint. They were quite upset with me this morning and said that both offices were "giving them the runaround". I did tell them I would touch base with your office about the issue.

*Lisa Kimmet, Elections Deputy*  
*Office of Montana Secretary of State*  
 406-444-5376  
 lkimmet@mt.gov

9/18/2008

**Baker, Mary**

**From:** Kimmet, Lisa  
**Sent:** Thursday, September 18, 2008 10:08 AM  
**To:** Unsworth, Dennis; Baker, Mary  
**Subject:** Frank Smith campaign

Hi Dennis and Mary,

Good job at SAVA on Monday. Those are always interesting hearings.

I've had several contacts with Jonathon Windy Boy and Charles Grant about the campaign of Frank Smith. Frank Smith filed a Declaration of Intent to Run as a Write-in Candidate with this office. A write-in candidate does not file with any party designation, because they have not been nominated as a partisan candidate. As I understand it, Frank Smith is now stating in his campaign materials that he is an "Independent Candidate". He is not an independent candidate, he is a write-in candidate. An Independent candidate must have filed by March 20. As far as this office is concerned, Frank Smith followed the correct procedure to be a write-in candidate. His campaign material, however, appears to be misleading. Is this something that your office investigates and follows up on? I thought it was, but both Jonathon Windy Boy and Charles Grant stated that they were directed to our office to file their complaint. They were quite upset with me this morning and said that both offices were "giving them the runaround". I did tell them I would touch base with your office about the issue.

*Lisa Kimmet, Elections Deputy*  
*Office of Montana Secretary of State*  
406-444-5376  
[lkimmet@mt.gov](mailto:lkimmet@mt.gov)

9/18/2008

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COMMISSIONER OF  
POLITICAL PRACTICES  
2008 SEP 17 P 1:49

# MONTANA SECRETARY OF STATE

*Brad Johnson*

Elections & Government Services  
(406) 444-5376  
lkimmet@mt.gov



Montana State Capitol  
2<sup>nd</sup> Floor, Room 260  
P.O. Box 202801  
Helena, MT 59620-2801

Charles Grant  
1172 Cleveland Avenue  
Havre, Montana 59501


Dear Mr. Grant:

I wanted to let you know that we have received your complaint about the write-in candidacy of Senator Frank Smith.

Based on the evidence you provide, it appears at first glance to be possible that the word "Independent" is being misused, as there is a legal difference between a write in candidate and an Independent candidate. But to know for sure whether that is the case would require an investigation.

Therefore, we are forwarding your complaint to the appropriate investigative authorities. Although the law gives this office no power to launch investigations, we do have the ability to refer complaints from citizens to agencies that can launch them. Our standard procedure in cases like this is to act immediately to get the information to the appropriate investigative authority.

In this case, that authority is the Commissioner of Political Practices. I hope that you will hear from him shortly.

Sincerely,  
  
Lisa Kimmet  
Deputy for Elections  
Montana Secretary of State

Cc: Office of Commissioner of Political Practices

COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

COPY

DENNIS UNSWORTH  
COMMISSIONER  
TELEPHONE (406) 444-2942  
FAX (406) 444-1643

1205 EIGHTH AVENUE  
PO BOX 202401  
HELENA, MONTANA 59620-2401  
[www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

September 11, 2008

Charles Grant  
1172 Cleveland Ave  
Havre MT 59501

Subject: Complaint received September 4, 2008; Frank Smith

Mr. Grant, I carefully reviewed the complaint you filed against Frank Smith.

The complaint alleges that Mr. Smith violated § 13-10-507, MCA, which provides that a person seeking office as an independent candidate may not be associated with a political party for one year prior to the submission of a nomination petition. Your complaint also alleges that Mr. Smith violated § 13-10-201, MCA, which prohibits a candidate from filing a declaration for more than one party's nomination. Finally, your complaint alleges that Mr. Smith violated § 13-35-207, MCA, which prohibits various activities that are classified as "deceptive election practices."

In the area of campaign finance and practices, my jurisdiction is limited to the provisions of Title 13, chapters 35 and 37, Montana Code Annotated. (See § 13-37-111, MCA.) I have no jurisdiction over alleged violations of §§ 13-10-201 and 13-10-507, MCA.

With regard to your contention that Mr. Smith violated § 13-35-207, MCA, by engaging in deceptive elections practices, your complaint does not allege sufficient facts to support a determination that it states a potential violation of the statute.

To be valid, a complaint must describe in detail an alleged violation, and cite the specific statute or rule within my jurisdiction that is alleged to have been violated. (ARM 44.10.307(2).)

For the reasons discussed above, I am dismissing the complaint based on ARM 44.10.307(3)(a):

. . . [N]o investigation shall be required if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction.

I regret that I am not able to provide additional assistance.

A handwritten signature in black ink, appearing to read "Dennis Unsworth".

Dennis Unsworth  
Commissioner of Political Practices

COMMISSIONER OF POLITICAL PRACTICES  
1205 Eighth Avenue  
Post Office Box 202401  
Helena, MT 59620-2401  
TELEPHONE: 406-444-2942  
FAX NUMBER: 406-444-1643

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SEP 13 2008 4:13 PM

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## CAMPAIGN FINANCE AND PRACTICES

### COMPLAINT FORM (07/01)

TYPE OR PRINT IN INK ALL INFORMATION ON THIS FORM EXCEPT FOR VERIFICATION SIGNATURE

#### PERSON BRINGING COMPLAINT (COMPLAINANT):

COMPLETE NAME Charles Grant

COMPLETE MAILING ADDRESS 1172 Cleveland Avenue  
Havre MT 59501

TELEPHONE NUMBERS: WORK \_\_\_\_\_ HOME 406-262-9623

#### PERSON OR ORGANIZATION AGAINST WHOM COMPLAINT IS BROUGHT (RESPONDENT):

COMPLETE NAME Frank Smith

COMPLETE MAILING ADDRESS P O Box 729  
Poplar MT 59255

TELEPHONE NUMBERS: WORK 406-768-3841 HOME 406-768-7321

PLEASE COMPLETE THE SECOND PAGE OF THIS FORM AND DESCRIBE IN  
DETAIL THE FACTS OF THE ALLEGED VIOLATION.

#### VERIFICATION BY OATH OR AFFIRMATION

STATE OF MONTANA, COUNTY OF Hill

I, Charles F Grant, being duly sworn, state that the information in this  
Complaint is complete, true, and correct, to the best of my knowledge and belief.

(SEAL)

Charles F Grant  
Signature of Complainant

Subscribed and sworn to before me this 2 day of  
September, 2008.

Krann Brewer  
Notary Public

My Commission Expires:

**CAMPAIGN FINANCE AND PRACTICES  
COMPLAINT FORM**

**PAGE 2**

**STATEMENT OF FACTS:**

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

Please see attached typed letter and  
appropriate attachments.

**TYPE OR PRINT IN INK ALL INFORMATION ON THIS FORM EXCEPT FOR  
VERIFICATION SIGNATURE**

**COMPLAINTS MUST BE:**

- SIGNED
- NOTARIZED
- DELIVERED IN PERSON OR BY CERTIFIED MAIL



September 2, 2008

Mr. Dennis Unswerth  
Commissioner of Political Practices  
1205 Eighth Avenue  
Helena, MT 59620-2401

Dear Commissioner Unswerth:

As a concerned citizen of this great state of Montana, I have found actions that disturbed me. The Senator for SD 16, Frank Smith is doing something I feel is wrong and is disingenuous to the whole democratic process. According to the exhibits I am providing you, it is clear that he has violated several Statutes in the Montana Codes Annotated (MCA's).

I'm under the assumption this grievance was brought to your attention in the past, and hope this official complaint will serve its purpose on getting your office engaged in the investigations of the violations of the campaign practices.

Attached is a copy of the brochure Senator Frank Smith has been distributing since the primary election ended.

The first violation I feel he violated is: **13-10-507. Independent candidates -- association with political parties not allowed.** (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of his nomination petition.

(2) For the purposes of subsection (1), "associated with a political party" means having run for office as a partisan candidate or having held an office with a political party designation.

Another violation I feel violates this action is: **13-35-207. Deceptive election practices.**

- (2) signs a registry card knowingly witnessing any false or misleading statement;
- (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- (4) falsely makes a declaration or certificate of nomination;
- (5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;

- (10) makes a false oath or affidavit where an oath or affidavit is required by law.

Finally, the last law he violated is: **13-10-201. Declaration for nomination.** (4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

In closing, I want to make a couple more points which I'm concerned.

1) The following pictures were taken of Senator Smith's signs, I'm not too sure if there is any law stating the possibility of co-mingling of campaign funds from the primary election which Senator Smith lost. It's obvious that Senator Smith is using the same signs he used in the primary, with the exception that he taped over the "RE-" on RE-ELECT and the donkey disclaimer."

2) According to the states webpage, it is very clear that Senator Frank Smith is still a democrat since he ran in the primary election as a Democrat, and is now attempting to run in the general election as an Independent Candidate.

3) It was also brought to my attention Senator Smith was distributing these brochures at the Poplar Indian Days Celebration over Labor Day weekend.

Thank you for your attention on this matter that is very serious to me. I look forward to the actions your office will investigate.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Grant", with a long horizontal flourish extending to the right.

Charles Grant  
1172 Cleveland Ave  
Havre MT 59501  
406-262-9623

Encl: Herald News article  
Frank Smith brochure  
Photos of campaign signs  
Fort Peck Journal article

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**13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. A candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(5) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6) Declarations for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(7) A declaration for nomination form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state.

**History:** (1) thru (5)En. Sec. 59, Ch. 368, L. 1969; amd. Sec. 1, Ch. 28, L. 1973; amd. Sec. 1, Ch. 246, L. 1975; amd. Sec. 14, Ch. 365, L. 1977; Sec. 23-3304, R.C.M. 1947; (6)En. Sec. 60, Ch. 368, L. 1969; amd. Sec. 15, Ch. 365, L. 1977; Sec. 23-3305, R.C.M. 1947; R.C.M. 1947, 23-3304(1) thru (4), (8), 23-3305; amd. Sec. 63, Ch. 571, L. 1979; amd. Sec. 25, Ch. 250, L. 1985; amd. Sec. 3, Ch. 644, L. 1987; amd. Sec. 2, Ch. 74, L. 1993; amd. Sec. 1, Ch. 5, L. 1997; amd. Sec. 1, Ch. 40, L. 1999; amd. Sec. 1, Ch. 7, L. 2003; amd. Sec. 18, Ch. 475, L. 2003; amd. Sec. 6, Ch. 586, L. 2005; amd. Sec. 1, Ch. 96, L. 2007.

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**13-10-507. Independent candidates -- association with political parties not allowed.** (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of his nomination petition.

(2) For the purposes of subsection (1), "associated with a political party" means having run for office as a partisan candidate or having held an office with a political party designation.

**History:** En. Sec. 9, Ch. 591, L. 1991.

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**13-35-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

- (1) falsely represents the person's name or other information required upon the person's registry card and causes registration with the card;
- (2) signs a registry card knowingly witnessing any false or misleading statement;
- (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- (4) falsely makes a declaration or certificate of nomination;
- (5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;
- (6) forges or falsely makes the official endorsement of a ballot;
- (7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;
- (8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;
- (9) signs a name other than the person's own to a petition, signs more than once for the same ballot issue, or signs a petition while not being a qualified elector of the state; or
- (10) makes a false oath or affidavit where an oath or affidavit is required by law.

**History:** En. by Sec. 15, Ch. 334, L. 1977; R.C.M. 1947, ; amd. Sec. 218, Ch. 571, L. 1979; amd. Sec. 23, Ch. 481, L. 2007.

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# Montana Legislative Roster

## 2007 REGULAR Session

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**[DUANE ANKNEY](#)**  
**[\(R\)](#)**  
**[ELSIE ARNTZEN](#)**

HD 43

HD 53

<b>SMALL- EASTMAN (D)</b>	
<b>FRANK J SMITH (D)</b>	SD 16
<b>JON SONJU (R)</b>	HD 7
<b>CAROLYN SQUIRES (D)</b>	SD 48
<b>WAYNE STAHL (R)</b>	HD 35
<b>COREY STAPLETON (R)</b>	SD 27
<b>DONALD STEINBEISSER (R)</b>	SD 19
<b>RON STOKER (R)</b>	HD 87
<b>ROBERT R STORY, JR (R)</b>	SD 30
<b>A B C D E F G H I J K L M N O P Q R S T U V W X Y Z</b>	
<b>BILL TASH (R)</b>	SD 36
<b>JANNA TAYLOR (R)</b>	HD 11
<b>BILL THOMAS (D)</b>	HD 26

**(D)**  
**JONATHAN**  
**WINDY BOY (D)**  
**BRADY**  
**WISEMAN (D)**  
**CRAIG WITTE**  
**(R)**

HD 32

HD 65

HD 8

Last Modified: 7/30/2008 9:55:48 AM

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## About Me

I am a Poplar High School graduate. I have four children: Virgil, Theresa, Mary and Suzann. I have served 6 years on the Northeast Montana Hospital Advisory Board, 9 years as a Boy Scout Leader, 10 years as an EMT trainer and ambulance driver, Red Cross instructor, Served 5 years in the U.S. Air Force as a crash rescue (fire fighter) specialist in Alaska and California, retrained into aerial reconnaissance at the University of Colorado. I spent the rest of my time in Massachusetts, went to Dawson College for Law Enforcement and worked 7 years for various police departments.

Paid For By:

Hazel Cantrell,

Treasurer

P.O. Box 127

Wolf Point, MT

59201

Contact me at:

Frank J. Smith

P.O. Box 729

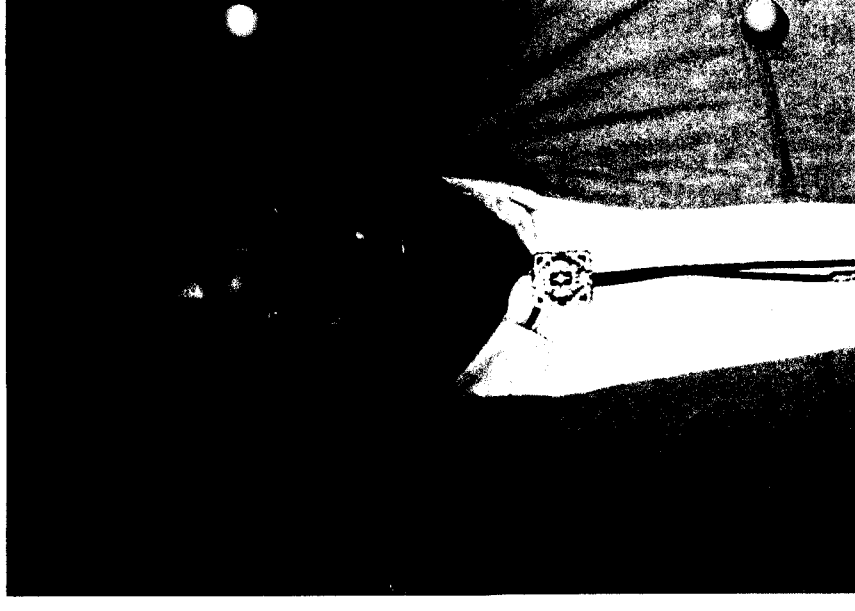
Poplar, MT 59255

406-768-3841 or

406-768-7321 (cell)

# Write In

● AND FILL IN THE OVAL



## FRANK J. SMITH

STATE SENATE DIST. 16

INDEPENDENT

*Someone You Can Count On*

# VOTE FRANK SMITH

## Independent Senate District 16

FAIR                      HONEST                      CONCERNED  
SOMEONE YOU CAN COUNT ON!

### Committees I Served:

Agriculture, Livestock And Irrigation, Business Labor Economics Affairs, Highways And Transportation, And Legislative Administration

### Bills Passed:

- SB 29: Establish Robert R. Ewing Jr. Memorial Highway
- SB 30: Allow Combination Purple Heart And Disabled Veteran License Plate
- SB 95: Revise Defibrillator Law
- SB 369: Revise PSC Jurisdiction Over Rural Cooperatives
- SJ 2: Study D.U.I Laws
- SJ 13: Resolution For Interim Study On Value Added Agriculture
- SJ 30: Study Employee Drug Testing
- SB 86: Montana Definitions For Indian Child Welfare Act
- SB 91: Allocation Of Special Wild Buffalo Licenses To Montana Indian Tribes
- SB 107: Clarify Conditions Requiring  
Agriculture Chemical Groundwater Management Plans.
- SB 264: Prohibit Arrest Quotas For Peace Officers
- SB 282: Revise Racial Profiling Law
- SB 333: Revise Laws Relating To School  
Retirement Costs From Certain Federal Funds (Impact Aide)
- HB 21: Designate Wolf Point As Montana Cowboy Hall Of Fame Site
- HB 69: Revise Laws Relating To Notaries Public
- HB 293: Prohibit Racial Profiling
- HJ 9: Urge Prescription Drug Cost Control
- HJ 11: Urge Federal Increase In Impact Aid For School
- HB 80: Require Local Residential Address For Voter Registration

*Elect* **Frank J**

**WRITE-IN**  
& FILL IN THE OVAL

**Smith**

**SENATE DISTRICT** 08<sup>08</sup> 22 16<sup>08</sup>

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**Article Database      Volume 2008      Issue 28**  
**Smith to challenge Windy Boy again in general election****News****Volume: 2008, Issue: 28****2008-07-10**Written by **Richard Peterson**

State Sen. Frank Smith threw his hat back into the political ring to again challenge Rep. Jonathan Windy Boy of Box Elder, who defeated Smith in the June Democratic primary.

Smith filed with the state election office two weeks ago and received his confirmation letter last week.

"Everybody is asking me to run again," Smith said Wednesday. "There are also about 10 different organizations -- co-ops, law enforcement groups and oil companies -- who've asked me to run again."

Smith also said a lot of people in the agriculture business also encouraged him to run again. "I felt I was very effective as a senator and I believe I can (win)," he said.

Contacted Wednesday, Windy Boy said although the voters in Senate District 16 have already spoken, it's Smith's constitutional right to run. Smith's reemergence into the race won't change Windy Boy's campaign, he said.

"We'll keep going, our plans haven't changed," Windy Boy said. "I felt I was very effective representing House District 32 and being a senator in District 16 would only enhance what I'm doing now, and that will expand to Roosevelt County and the Fort Peck Tribes."

In the November general election, Smith will run as an independent and will rely on voters to write in his name on the ballot and also check the box next to the name.

Smith was seeking his second term as Democratic state senator from District 16, which stretches from Brockton to Rocky Boy and includes three Indian reservations and six counties.

Smith said if he's elected as an independent, he wouldn't be as restricted by term limits if he'd been elected as a Democrat.

After a busy campaign season, Windy Boy squeaked out a win over Smith by a 1,424 to 1,289 margin. The final results weren't available until the wee hours of morning.

In that race, Windy Boy captured Blaine, Choteau and Hill counties by significant margins and Smith won in Phillips, Valley and Roosevelt. In Roosevelt, Smith easily won by a 714-386 margin.

Before his election to the senate in 2004, Smith served three terms in the state House of Representatives. During the 2007 session, Smith served as chairman of the Legislative Administration committee; the vice chair of the agriculture, livestock and irrigation committee; and is a member of the highways and transportation and the business, labor and economic committees.

Smith is also a former Fort Peck tribal councilman.

Windy Boy, presently elected to the Chippewa Cree Tribal Council, was elected to serve in state House District 32 in 2002. Since that time he served on the state tribal relations committee, the agriculture committee and business and labor.

**Article Database      Volume 2008      Issue 28**

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# Smith Will Run As An Independent Against Primary Winner Windy Boy

**By Kayla Matzke**

After almost a decade of representing the people along the Hi-Line, Frank Smith is fighting for his seat in Helena.

After a tight primary race that ended in defeat against Jonathan Windy Boy, Smith has decided to challenge him again in November. Smith is running to keep his seat in Senate District 16. SD16 includes Roosevelt, Valley, Hill, Phillips, Blaine and Chouteau counties. Smith lost to Windy Boy by only 135 votes in the June's Democratic primary. Smith carried Roosevelt County with 64 percent of votes.

Smith will run as a write-in, independent candidate in November.

Windy Boy acknowledged that he hasn't gained the confidence and support of everyone on the Fort Peck Reservation or in Roosevelt County, but he said that he is hoping to gain the people's trust by November.

Smith said he is running because there are many people calling asking him to run again. Smith said veteran and medical groups, along with the Sheriffs and Peace Officers Association, have all asked him to run.

"I think I've got a good chance of winning," Smith said.

Regardless if Smith wins or not in November, Windy Boy said that the Democratic party has already spoken. If Smith wants to try to run again, that's his prerogative, Windy Boy said.

With no candidate running, Republicans from around the region have called Smith and told him that he has their vote, Smith said.

Windy Boy said he doesn't have time to sit back and worry about Smith and about beefing up his campaign against him.

Windy Boy said he is not going to let Smith distract

him and is continuing to work on the federally-assisted water projects in the region. He said it's imperative to take the water projects to the governor's desk [to ensure the funding before the Governor] writes his proposed budget for the next fiscal year this fall.

There is a small window of opportunity, Windy Boy said, for the water projects, including the Dry Prairie/Fort Peck Rural Water Project, to make it to the governor before he releases the budget.

It would be an injustice to the people for him to sit back and strategize about beating Smith while putting the water projects on the backburner along with other things, Windy Boy said.

A lot of times, Windy Boy said, advocacy for the people along the Hi-Line gets overshadowed by the bigger cities in Montana. It's important to have a strong voice to represent the people, Windy Boy said.

If Smith wins, he says

he wants to continue working on medical and veteran issues. "We need more bonuses for veterans," he said.

Smith figures he has gained more supporters after he lost in the primary.

If he doesn't win in November, Smith said he will take two years off and move to Las Vegas, Nev., to run his business. Then, he would come back and run for the state House of Representatives.

Smith previously served two sessions in the Senate and three in the House.

Before running for Senate District 16, Windy Boy served District 32 in the state's House of Representatives since 2002.

Since he initially didn't run as an independent, Smith's name won't be on the ballot. Voters will have to write in his name and color in the oval, he said.

"I'm not a Democrat or a Republican," Smith said. "I'm a northeastern Montanan."

## Tribes Don't Want Swift Fox On Trapping List, Yet

**By Kayla Matzke**

The request by state biologists who proposed that trappers be able to take 20 swift foxes per year were recently denied by the Montana Fish, Wildlife and Parks Commission.

On June 12, Les Bighorn, a wildlife technician with Fort Peck Game and Fish Department, convinced the board otherwise, claiming that the swift fox population isn't stable just yet.

In 1969, Montana wildlife officials declared the swift fox extinct in the state. According to Bighorn,

there was an established family of six on the reservation they didn't know about.

Instead of a reintroduction, tribal wildlife officials planned a translocation. They took 10 foxes and built mesh pens so the foxes could be climatized into their new location. After a week or so, the foxes were released with collars on them.

So far, Bighorn says he can count the number of foxes on two hands that are residing on the reservation. Off the reservation, the fox populations haven't

lation of swift fox in Montana is very sufficient to allow for a harvest.

Rauscher was one of the biologists who made the proposal that trappers be allowed to take 20 foxes. The trapping of the foxes would only be allowed in region six of the state, which is most of northeastern Montana.

Rauscher said he has been monitoring the swift fox population for years and his data proves that there are swift fox living throughout Montana. Rauscher said that allowing 20 swift fox to be

the swift fox go if they unintentionally trap one, he said. If the commission would have passed the proposal, those trappers could keep the swift fox, Rauscher said.

Swift foxes have been removed from the endangered species list in the U.S., but Canada classifies them as extirpated — no longer existing in Canada but living elsewhere. Bighorn said the swift fox is a species of concern in Montana.

Swift foxes have lost much of their native habitat of grasslands to agriculture. Many have also