

Chairman Brand called the meeting to order at 9:00 a.m., roll was taken with Menahan excused, and Lien in Taxation, Bardanouve coming in late from a subcommittee meeting, and Kanduch, Meyer and Smith just late.

Dick Hargesheimer submitted his summary, see attachment #1.

EXECUTIVE SESSION

HB 249 & HB 302-O'Connell gave a subcommittee report (see attachment #2), then proceeded to move DO NOT PASS on HB 249, Fedra seconded the motion, and it carried unanimously. Upon consulting the subcommittee report, the secretary confirmed that the sponsors had requested that HB 249 be held in committee for the outcome of HB 302. Kropp moved to reconsider HB 249 and hold it in committee, Mular seconded the motion, and it carried with Ryan voting no.

O'Connell read the amendments to HB 302, and moved acceptance of said amendments, Fedra seconded, and the motion carried unanimously. She then moved AS AMENDED DO PASS, Kanduch seconded, and the motion carried, with Fedra and Smith voting no.

EXECUTIVE SESSION CLOSED

HB 519-Rep. Waldron, sponsor--Last year the Human Rights Commission ruled that mandatory retirement ages were unconstitutional. There are some exceptions, but they have to be determined in court. Where age is an integral part of the benefit plan, there can't be a requirement to retire or to remain until a certain age. The Human Rights Act has implied repealers, but the courts are reluctant to accept such things. This bill is necessary. This doesn't remove limits of age or service. Public employees are the only ones who have specific requirements. This doesn't affect PERS in any detrimental fashion.

MICHAEL PICHETTE, Secretary, State Democratic Party--This is part of the current party platform, so we support.

STAN GERKE, AFSOME, AFL-CIO--Whereas the Council believes in nondiscriminatory laws, so they do not support any laws giving mandatory age of retirement.

CHARLES BANDEROB, Ballentine, Montana--The Montana Senior Citizens Asso. feels that mandatory retirement ages deal a severe blow with senior citizens. Many people have many good years left ahead at 65.

DUANE TOOLE, Montana Highway Patrol--We would oppose the section dealing with the Highway Patrol. We are faced with management problems if our retirement age is not maintained. A person of 65 can no longer perform the duties necessary in my line of work. The U.S. Supreme Court enmasse has passed 50 as the mandatory age for retirement of policemen. The state wants to provide quality service.

WALDRON-A retirement system based upon mandatory age limits is pernicious. It is a was to get rid of useful people. I urge your support.

MULAR-What about appeals and litigation? WALDRON-We have always had alot of litigation about retirement. As far as law enforcement, I don't see a number of increases in the cases brought in. BRAND-What would this do with employment of young people?

WALDRON-I don't have any figures; but you don't create jobs by putting other people out; you have a strong enough economy that there are jobs for everyone. MENAHAN-How

would this affect teachers? WALDRON-Universities instructors would be the only ones affected. Teachers have a plan where they stop accruing benefits after a certain age. ROMY ZION (Montana School Board)-The school board has the discretion, by statute, to dictate retirement age, and this wouldn't be in violation of the Human Rights Act.

HB 522, and HJR 34-(These were companion bills, and were heard in conjunction)Rep. Driscoll, sponsor--I ask your support for both of these. HB 522 repeals an automatic repealer clause of the gubernatorial campaign fund of two years ago. Two sessions ago there were three major bills to do this, but because they were so complicated, they were difficult to pass. Last session we introduced a short bill about this in which each taxpayer could give \$1.00 unilaterally to be split between the two major candidates. We expected about 13% the first year, and 15% the second - as it was, we got 20% the first year, and 25% the second. There was an automatic repealer in the bill for the money to go into the general fund at the end of two years, and this bill stops that - if this passes, the money would accrue for the next election. \$300,000 is expected by 1979, and this is too much. We need a ceiling on public contributions if candidates also get private funds. HJR 34 says how this money should be used in 1979. I would recommend an amendment to change the name from the "gubernatorial" fund to the "public campaign fund" The gubernatorial fund should be seen as an experiment, and the public one would be an experiment also. HJR 34 creates an ad hoc committee to study public financing. It designates the races that would qualify for public financing, and whether there should be a ceiling on private contributions, the manner of record keeping, how the money is distributed, etc. There are several people here who were on the study committee to testify, and I reserve the right to close.

BRUCE NELSON, Governor's Office--The fundamental question is whether the test prescribed has been met. The governor believes the voluntary check off in the past two years is evidence enough of the public interest. Because of his belief in public financing, we strongly support this. (see attachment #4 for further testimony from Nelson)

EVAN BARRETT, Helena, Montana--I worked on the study, and Driscoll's bill was designed to test public acceptance - we believe it was successful. We found last year that there were a few changes necessary; consequently, it would be very important to have this ad hoc committee to work through this. The level of participation is increasing, and was far greater than we expected. They are collecting this year, and we feel we can have a comprehensive plan in two years, working with the Department of Revenue. The check off is a problem, we could have direct appropriations; but we also have to determine whether you give it to unopposed races, primaries, generals, or both. Should it be a flat dollar amount, etc. We don't feel we are ready to present a formal plan. On behalf of the Department of Revenue, I recommend passage of both bills. (see attachment #5 for a comprehensive overview of what Barrett spoke of)

WALTER "HOWDY" MURFITT, Campaign Manager-Woodahl/Rosell Campaign--I feel the state is moving in this direction. We would have had about 1/4 the money Judge had without this public money. In this day and age, we are removing the necessity of fund raising, and doing the things necessary to raise money. I support both bills.

RON RICHARDS, Campaign Manager, Judge/Schwinden Campaign--Great efforts were made to be strictly accountable with this money. This is important in state-wide races because after the primary the candidates are faced with getting off the ground again. The companies and firms you deal with demand payment in advance. We found that application of this fund negated the need for candidates to come up with "early money". I would

concurr in Murfitt's assessment that the time has come for this, and I also urge the adoption of the resolution.

MICHAEL PICHETTE, Secretary, Democratic Party--I appear as the Executive Secretary of the Democratic Party; and we support both bills. The existing law requires this money to be given to the two parties, so we are greatly involved. It worked well this time, and we would particularly like to see HB 522 pass. I am also here to represent Mr. Nicholias, and have brought all of our records of disbursement of the monies. (see attachment #6)

ERNIE POST, AFL-CIO--We appear in support of both bills. We think the study is needed. We, as organized labor, look forward to the day of full public financing--when neither business nor labor can give to political campaigns. The gubernatorial fund should be continued. In the meantime, the study should take place to clear up any problems.

MAGGIE DAVIS, League of Women Voters--We support both bills. (see attachment #7 for statements on both bills) We feel that HJR 34 is especially necessary, in that we are interested in a broad spectrum of elections.

ANNE GUNN, Common Cause--We support continuation of the present system, but we also support the money being allowed to accumulate for distribution by the 1979 legislature. This is a way to get rid of special interest groups--we fully support both bills. (see attachment #8 for further comments)

DRISCOLL--This is not without cost to the state - it would be \$300,000 out of the general fund. There is something to be said about the influence of private money on campaigns. This also gives candidates of moderate incomes a chance. I hope the committee will seriously consider both bills.

THERE WERE NO OPPONENTS

HB 351--Rep. Mular, sponsor--This bill arises from the fact that many schools run into problems with financing athletics. There are many doctors, lawyers, etc. who would volunteer as assistant coaches.

STEVE KASUN, Former Coach in Butte--The present rule forbids me from volunteering my services, and I want to be able to do this with a private or parochial school. Not only myself, but many others in all sports - especially with girls participating in sports, it becomes a burden on the school. We have to hustle for the money. Because of rule #4, you have 50 or 60 boys and girls with one coach. In comparison, take American Legion Baseball - there are non-teachers who volunteer. They are coaching the same kids - so why can you coach in June, but not in April? What we are asking is to be able to donate our services. I would ask your support because the present law is discriminatory.

MULAR--The rule that was alluded to is in the Montana High School Athletic Association Code - it states that you must teach at least 3 accredited hours. I would remind you that these people want to volunteer, and the money could go into the schools in other ways. There are many people who are well qualified. The problem with private and parochial schools are funds, and they suffer without athletics.

FEDA--Why can't they get this through the high school association? MULAR--Coach Sweeney did write a letter recommending this, but it has not been answered. The athletic association has been approached on several occasions, and it is possibly unconstitutional.

BARDANOUE-Why can't this be done for all schools? Public schools too? MULAR-There are contracts with the school systems, and this would be breach of contract. BARDANOUE-No, just let it be permissive, for some of the small towns. Could you make it a repealer for this rule you speak of? MULAR-I tried to deal with the main problem in schools on a broad basis. Public schools would have to do this in their by-laws. If we make this applicable to the school system, we would change the intent of the bill. BARDANOUE-What about members competing against each other, with one side having free coaches and one not. MULAR-The coaches association and the Montana Athletic Asso. both know and if they disapproved, they would be here. There are certain bonding requirements, and the school has the option of bonafying these people. They can be part-time or whatever. We have laymen that are well qualified, and yet can't do anything.

DUE TO CONTINUED LAXITY ON THE PART OF THE NEWSPAPERS, PEOPLE WERE STILL UNDER THE IMPRESSION THAT THE HEARINGS STARTED AT 10:00. DUE TO THIS, CHAIRMAN BRAND ALLOWED CHAD SMITH TO TESTIFY ON HB 519 AT THIS TIME.

CHAD SMITH, Montana School Board--The provision in this has very serious implications with schools in maintaining adequate teachers. Page 12, lines 14 through 21 - the provision being taken out applies to tenure. The school board has four methods for the severance of tenured teachers - incompetence, unfitness, immorality, and if the teacher will reach age 65 before September 1 - in which case, we notify them prior to April 1. Some teachers may be kept on until age 70. It is impossible to bring about dismissal of tenured teachers any other way. The last two cases - one from Libby, involved four years of proceedings, until the Supreme Court approved it; and there was a case in Lewistown that went for three years and is still not concluded. The only practical solution when the teacher comes close to retirement is just to wait out the time because you will get into litigation otherwise. The retirement system is set up for pensions. It is the mechanism which districts have used for many years. It is not unconstitutional. The statute does not mention age. In '72, the need to enter that was pointed out. We have had numerous cases of teachers who had lost the ability to relate, and these ended in long drawn out proceedings. If you pass this, we request that Section 7, pages 11 and 12, be deleted, so that the provisions under our system can be maintained.

MULAR-If we don't do this, do you see the Human Rights Commission having a legal bonanza? SMITH-No. O'CONNELL-The teacher part was raised earlier, and someone said that state laws are already on the books to take care of this. SMITH-This is the only statute that relates to teacher retirement.

HB 514-Rep. Menahan, sponsor--This allows the policemen to have PERS deduct insurance premiums from their retirement.

LARRY NACHTSHEIM, Administrator, PERS--The state wide insurance plan currently allows retirees to continue to collect premiums, this is strictly an administrative consideration.

STAN GERKE, AFSCME--We support fully.

NO OPPONENTS

HB 515-Rep. Menahan, sponsor--This bill increases the Legislative Council from 8 to 16 members. I want to put it in a subcommittee to work out the details. We should have

better representation on the Council. When you first get here you don't have much to say about things, and that was my basic intent; because if we are going to serve here, we should have some say about how things run. I don't feel that the leadership should have to go to a non-political person about problems within the legislature.

BRAND-Are you going to say that so many freshmen have to be on here? MENAHAN-The council didn't draft this - I helped, and I made some mistakes. I just want the legislature to have some input about who is hired for researchers, lawyers, etc. People who were working before we got here were waiting for their paychecks, and weren't paid. The Council didn't pay them. If they are our employees, we should pay them. BRAND-I question your objective in changing the bill. MENAHAN-I want to change the number of people and have this be a nonpartisan committee who hires and fires the people who work for us, and give them a channel of complaint. KROPP-Isn't is a nonpartisan committee now? (Rep. Marks, currently Chairman of the Council was present for questions) MARKS-The Council is set up as bipartisan, and also with four members from each house and party. My experience has been pretty nonpartisan. The question about pay - I'm not sure of the problem. The Legislative Administration Committee submit hours to the payroll people in the council. As soon as the time cards are drawn, they should have been paid. MENAHAN-State employees get paid every two weeks, and some of them didn't get paid for a month. BARDANOUVE-This assumption is completely erroneous. This situation does not exist at all, and if it does, it doesn't have to do with the Council.

EXECUTIVE SESSION

HB 263-Dick Hargesheimer presented amendments (see committee report) which he claimed didn't change the substance of the title. Mular moved adoption of the amendments, O'Connell seconded, and the motion carried with Robbins voting no. Mular moved AS AMENDED DO PASS, Ryan seconded, and the motion carried unanimously.

Tower moved to reconsider HB 392, Meyer seconded and the motion carried.

TOWER-Two members weren't here, and one has amendments. BARDANOUVE-This is very irregular, but I will not oppose - however, if we do this throughout the session, we will be in trouble. BRAND-I went to the leadership, and they said this was one way to deal with it - either he does this or he can bring it out on the floor - the committee report has not been released yet. KROPP-I feel Bardanouve was out of order yesterday. BRAND-No, there was a motion on the floor. MULAR-Two of us had to leave. BRAND-You did leave some pairs, but I didn't know how you would vote. MULAR-If the committee will look at page 8, line 16. I don't know if you are aware of the OPM standard? Now what may be prudent for Lien may not be for Brand. I move to strike "prudence" and insert "good faith". Prudence is challengeable; but if there is a yield concept then Howeth would be in a better position legally. I didn't see any direct opposition to this, nor was I here to hear Bardanouve's opposition. I defer to Tower's amendments, and move adoption of the amendments. Robbins seconded. BARDANOUVE-I have done a tremendous amount of work on this, and if there's one thing I am proud of, it's the investment program. I fought all the bankers and teachers for six years, and I feel we have one of the best investment laws in the country. The prudent man rule is received by the courts - when you vest the prudent man rule, you have to have a whole case full of new laws. MULAR-Good faith is coming more into recognition with the Supreme Court. Prudent man is challengeable, good faith isn't. BARDANOUVE-Does this amendment pertain to all funds under the investment board? TOWER-I was pretty careful going through this, and trying to limit it to that one fund - because that fund has constitutional implications. BARDANOUVE-With the

knowledge I have acquired over the years, I will have to oppose this - the prudent man rule is received all over the country. I think this will open up a whole new area.

Mular's motion to accept the amendments carried 9 - 6, with Brand, Bardanouve, Menahan, O'Connell, Robbins and Ryan voting no.

BRAND-You will have to propose your amendments too, Mr. Tower. TOWER-There were two things brought into the investment board - prudent man, and guidance in how to do this. I want to leave line 9 on page 8, and insert how the bids shall be submitted. I want to get this principle invested in the state.

Tower moved his amendments, and Feda seconded. TOWER-I think Bardanouve is correct in his concern, but it is just with one fund.

The motion carried with the same vote as before 9 - 6--reference the previous vote as to who voted how.

Mular moved AS AMENDED DO PASS, Kropp seconded, and the motion carried with the same 9 - 6.

BRAND-Once a bill is out of this committee, and on the floor, we will not recall it. When you leave from now on, you will leave either a pair or a vote. MENAHAN-You don't leave a pair, you leave a vote. BRAND-I will do anything you want, but I don't want things going to the floor and coming back. You know what is being heard 24 hours in advance, and you are to leave your vote with the secretary if you can't be here. MULAR-Bardanouve, I want you to know that though you and I fight like cats and dogs, I appreciate the courtesy you extend on the floor. ROBBINS-Bardanouve said he would do it again. I won't do it on the floor, but I will do it in the halls.

HB 351-Mular read the amendments - "no athletic association may deny membership to any private or parochial high school" - he then moved adoption of the amendments and Robbins seconded. MULAR-This amendment should clear up the problem. BARDANOUE-The way it is written, they can do anything they want to. BRAND-Why don't we put this in a subcommittee? BARDANOUE-This changes the intent of the bill. You are saying you can't deny "membership". Mular withdrew his amendment, and moved that the bill be put in a subcommittee, Kropp seconded, and the motion carried unanimously.

HB 514-Menahan moved DO PASS, Bardanouve seconded and the motion carried with Smith voting no.

HB 515-Menahan moved that the bill be put into a subcommittee, Mular seconded. Bardanouve recommended that the subcommittee report on the 89th day. Menahan retorted that Bardanouve was afraid that he would uncover a can of worms. The motion carried, with Meyer, Smith, Kropp and Bardanouve voting no. The subcommittee appointed consisted of: Menahan (Chairman), Kanduch and Tower.

HB 519-Menahan moved DO NOT PASS, Kropp seconded. Mular made a substitute motion that the bill be put into a subcommittee, but upon the groans and moans of the other members he withdrew his motion. BARDANOUE-May I be excused from voting? I don't know anything about the bill. BRAND-Yes. The motion carried, with Mular, Robbins, Ryan and O'Connell voting no; and Bardanouve not voting.

RYAN-Why are we according Bardanouve the privilege of not voting? BRAND-If someone is absent in a hearing, do you still want them to vote? MENAHAN-If he thinks he doesn't know enough about the bill to vote, then he doesn't have to vote. BRAND-Do you think we should put it in the minutes? RYAN-I think any action taken by this committee, as long as there is a quorum present, must be voted on by everyone. BRAND-We will allow a non-voting position, and put it in the minutes. A policy that when we are all present, and anyone chooses to abstain, it will be recorded. If the person was out during the hearing, they have no knowledge of the bill anyway. ROBBINS-Then every member could choose to pass. BRAND-I will take this up with the Rules Committee, and come back with their position. KANDUCH-He wasn't here when the testimony was given, and that was the basis of his excuse - I would do the same. BRAND-The only time I require you to vote is when you are here for the hearing. I just want you all to have an equal chance. SMITH-Most people have read the bill before coming up, and they know how they want to vote, but should have the privilege of not voting.

HB 522-Brand recommended a subcommittee to draw up new legislation because of line 6 of the title - gubernatorial being deleted - BRAND-I believe we need a committee bill, and we have to have 3/4 of the committee in agreement.

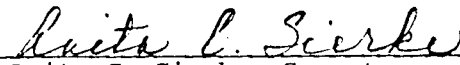
Robbins moved that a committee bill be drawn up, Feda seconded. MULAR-I don't think we have to kill it, we can just leave it in committee. The motion failed, with Kropp, Feda, Smith and Meyer voting no.

Mular moved DO PASS on HB 522, with O'Connell seconding. MULAR-All we are looking at is the repealer. HJR 34 can come back with recommendations. The motion carried 10 - 4, with Feda, Kropp, Smith and Tower voting no.

HJR 34-Mular moved DO PASS, Tower seconded, and the motion carried with Kropp voting no.

MEETING ADJOURNED - 11:30

Joe Brand, Chairman


Anita C. Sierke, Secretary
