

11:00 a.m.  
March 23, 1977

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

The meeting of the State Administration Committee was called to order by Chairman Thomas Towe on the above date in Room 410 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 462.

Representative Mike Meloy, District 29, is chief sponsor of this bill. Since the new Constitution was ratified which requires the Legislature to have a code of ethics of officers and employees one of the only constitutional provisions in this country is that it requires the Legislature to promulgate the code of ethics. He stated he reintroduced this bill this session and the House Judiciary Committee after floor debate made the amendments before you. Since this is all new language anything that is stricken or added represents what was done in the House Judiciary Committee. The amendments put him in an awkward position because it comes close to a fine line whether the bill is better alive or dead. He thinks the bill is better than nothing and that is why he agreed to go ahead and carry the bill.

He stated in the first three sections - Statement of Purpose, Definitions and Public Trust - essentially a person who is an officer or employee is vested with authority to make decisions and he should make the decision with the integrity the public expects.

Section 4 - 6, Rules of Conduct. There are different standards here that apply to officers and employees of State Government who work full-time and for people working part-time (such as legislators) and for local governmental officials. There is a separate set of standards in Section 4 that relate to everybody. The House amendments would change the language of the introduced bill. The House Judiciary Committee has added a great deal of flexibility to this statute.

Section 7 - Rules of Conduct. Provides for rules of conduct for local government officials.

Section 8 - Ethical Principles for Legislators. These are things that legislators ought not be doing. Again, the House Judiciary Committee amended this.

Section 11 - Powers of the Secretary of State. This has been very substantially changed. First, the criminal penalty for conflict for violation of the act has been taken out. He really preferred that the Commissioner of Campaign Finances and Practices issue the opinions.

He stated he has been trying for awhile to get a bill enacted that would provide for a code of ethics. People have no where to go if they have a conflict. Right now there is nothing in the law and the accusations that are made can be made without providing the person accused of the conflict any defense. That is probably the most important reason for having this bill.

PROPONENTS:

Natalie Cannon, Common Cause of Montana. She stated any effort to realize personal gains is a violation of trust. It is inevitable that some officials will have some private interest and income that will conflict with the public duties. Common Cause reluctantly supports HB 462 in its present form but they do support it. She advised that the Committee look this over carefully to see if amendments could be made to make it stronger.

Chairman Towe stated you indicated that there are two separate rules, one for full-time and one for part-time. Where is this in the bill?

Representative Meloy stated section 6 provides rules of conduct for state officers and state employees.

Chairman Towe asked how come we don't have a sounding board as we do with the election commissioner?

Representative Meloy stated you could have the Judiciary Committee not strike the language on page 11, lines 11-15.

Senator Story asked on these various Boards, we are not doing anything that will take the professional people out of the Boards are we?

Representative Meloy stated no.

Chairman Towe asked that Representative Meloy come back some time because the Committee still had questions. Representative Meloy had to go to another meeting.

Hearing closed on HB 462.

CONSIDERATION OF HOUSE BILL 297.

Representative John Driscoll is the chief sponsor of this bill. He stated this is an annual sessions bill introduced by him in the House. The bill as it was originally proposed only received 50 votes and on final vote would have received only 49. The bill was brought back on second reading and heavily amended. The idea that Representative Ramirez put into this bill is essentially

legislators would meet on each year of the biennium. On odd years they would meet for 30 days and on even years they would meet for 60 days.

On odd years the only bills that could be introduced would be appropriation and revenue bills and any bills that were deemed very necessary and unless they had a 2/3 vote of the members of a committee to which the bill is assigned. All other bills could be drafted during the first 30 day session and then held over until the next session and then transmitted in the ordinary manner. This will put the thrust of legislation into the second session. It will allow members to consider legislation through the interim.

PROPONENTS:

Joy Bruck, League of Women Voters, stated they strongly support annual sessions. Her testimony is attached. (Exhibit #1)

Joe A. Renders, Montana Farmers Union, stated they support annual sessions and support either of the bills, but they prefer HB 213. His written testimony is attached. (Exhibit #2)

Natalie Cannon, Common Cause, stated she urged the committee to consider one of the two House bills before you so that the people in Montana will be able to vote again for annual sessions. They are very much in favor of the carry over feature. She thought if 2/3 vote is required to pass a bill this might provide some frustration and the action might not be taken. She stated she would prefer HB 213 to HB 297, but she hoped the committee would consider HB 297 because it does have some good points.

There were no opponents to this bill.

Senator Jergeson asked how many votes did HB 213 get in the House?

Joy Bruck stated she thought 61 votes.

Senator Jergeson asked how many votes did HB 297 get in the House?

Representative Driscoll stated 67.

Senator Roskie asked would you anticipate there would be any committee hearings held in the 30 days?

Representative Driscoll stated the committees would become quick screening committees to see what should be transmitted and what would not. A considerable amount of committee work could be done during the biennium.

Senator Devine asked where is Senator Brown's bill.

Representative Driscoll stated it was in the Rules Committee or State Administration. He was not sure.

Hearing closed on HB 297.

CONSIDERATION OF HOUSE BILL 213.

Since Representative Gerke was not at the meeting Chairman Towe stated HB 213 would provide for a continuous body for 2-year periods. Odd numbered years would be 60 days and even numbered years would be 60 days also. Only appropriation bills and revenue bills and committee bills would be introduced during the even numbered years. The legislature may be convened in special sessions by the Governor or at a written request of a majority of the members.

PROPONENTS:

Joy Bruck, League of Women Voters of Montana. She stated she supports HB 213. Her testimony is attached. (Exhibit #3)

Joe A. Renders, Montana Farmers Union, stated he supports HB 213. He has submitted previous testimony for both HB 297 and HB 213. This is attached as Exhibit #2.

Natalie Cannon, Common Cause, stated she supports HB 213.

There were no opponents.

Senator Roskie stated that Mr. Renders indicated a preference. Do you indicate a preference Mrs. Bruck?

Joy Bruck stated no. She would just like to see one of the House bills pass the Legislature and allow the public to vote on it again.

Senator Towe asked what is your preference with regard to Senator Brown's bill which is 75 days on odd years and 30 days on even.

Joe Renders stated HB 213 would be first and Senator Brown's bill would be second and HB 297 would be third.

Joy Bruck stated she is against the 30 day session. She does not think much could be done in that amount of time. She preferred Senator Brown's bill when it was 45 days.

Natalie Cannon stated she prefers HB 213 because it allows for more flexibility and continuity. Senator Brown's bill would be second, but they would go with any that would pass the Legislature.

Chairman Towe stated he would let Representative Gerke appear before the committee before they voted on this bill.

Hearing closed on HB 213.

FURTHER CONSIDERATION ON HOUSE BILL 263.

Chairman Towe stated because of a problem they brought the bill back to the committee for further discussion.

Alton Hendrickson stated he was requested by Senator Rasmussen to be here this morning. They discovered an error in the testimony so he prepared a letter dated March 21, 1977, which was distributed to all committee members. This letter is attached. (Exhibit #4)

This letter deals with reasonable or equitable retirement benefits to those firemen who stay at least 20 years and would be entitled to some retirement benefits. He could work 20 years instead of 25 years and receive 1/2 benefit at age 50. Presently, it is anticipated that the 25 year old firemen will work 25 years. The cost of his retirement is set aside at 1/25 a year. After 20 years of service there would be some years that some contributions would be missing. He has proposed an amendment to the bill that would rectify the problem. If he works 20 years he will get 20/25 of retirement benefits.

He stated the testimony he gave last Saturday he stated he supported the bill. He does support the concept. His only concern is that an equitable benefit be provided at no extra cost to the system. If the amendment is not adopted he could not support the bill because of the financial impact upon the finance funds.

Al Samson stated he will support the bill and the amendments.

Ed Johnson stated he has never come before any committee in the House or Senate with any phony information. If it got off balance it wasn't him. He would like to go on record stating the intent of this new law would have no impact on any prior bills that have been passed on the pension.

Senator Rasmussen asked what kind of shape is the finance pension in now?

Mr. Hendrickson stated as in many cases it could use stronger financing.

Senator Rasmussen asked who drew up this bill?

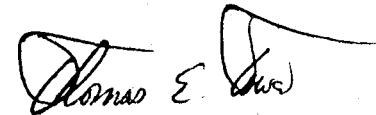
Mr. Samson stated they gave the idea to Senator Norman and the Legislative Council drafted it from there.

Hearing closed on HB 263.

#### HOUSE BILL 302

The attached amendments restore the original language of the open meeting bill. (Exhibit #5)

ADJOURN: There being no further business, Chairman Towe adjourned the meeting at 12:20 p.m.

  
THOMAS E. TOWE, CHAIRMAN

## ROLL CALL

Date Ad. COMMITTEE

45th LEGISLATIVE SESSION -- 1977

Date 3-23-77

1/6 213  
1/6 247  
BILL 413 462

SENATE State Adm. COMMITTEE

VISITORS' REGISTER

DATE 3-22-77

*Joy Bruck Cabinet 1*

# LEAGUE OF WOMEN VOTERS OF MONTANA

1100 AVENUE B, N.W., GREAT FALLS, MONTANA 59404

HB 297      Annual Sessions

The League of Women Voters has supported annual legislative sessions for a long time. The action of the Legislature bears directly on the life and welfare of us all.

We are concerned when legislation is passed and is found to be unworkable, or causes confusion or hardship, or the ramifications were underestomated, and we must wait two years until it can be repealed or amended; we are concerned with the effectiveness of studying difficult or controversial issues when the Committee findings come back to a different Legislature. These are just a couple of examples of why we believe citizens would benefit so much more with annual sessions.

The Legislature should be equal in strength to the other branches of government - the two oversight committees helped, and there is legislation this session which, if passed, might also help if biennial sessions remain, but this is not enough - annual sessions is the best way for the Legislature to gain the strength it needs, and to give us an effective separation of powers essential to good government.

This bill, as amended, is certainly a different approach - I'm not sure anyone could say whether it is workable, or not - we do realize that the 60-day 60-day, no restrictions, has not been acceptable to the legislators or the public, and that we must find an alternative. However, we do question if much would be accomplished in an odd-year 30 day sessions - you would just get geared up and it would be over. Wouldn't it be better to lengthen the odd-year session? You would have a cushion if you needed it. You would not have to remain in session for the full time, but, in an especially busy year, it might be better to have those extra days available rather than find it necessary to extend the session.

We would like you to consider our suggestion, and amend HB 297.

*Exhibit A 2*

TESTIMONY BEFORE THE STATE ADMINISTRATION COMMITTEE, MONTANA STATE SENATE,  
HEARING ON HOUSE BILLS 213 AND 297, MARCH 23, 1977.

I am Joe A. Renders, administrative assistant to the president of Montana Farmers Union, a statewide farm and ranch organization of approximately 7,500 family members, with headquarters in Great Falls.

Delegates to the annual state convention of our organization last November, once again adopted a resolution supporting annual sessions of the Legislature.

Both of these House bills, 213 and 297, contain the two key provisions which we believe annual legislative sessions should have:

- 1) They allow for carryover of bills from the first year to the second; and
- 2) They limit in some fashion the introduction of bills in the second year.

Carryover allows the Legislature to hold bills for closer study during the interim, conduct hearings statewide to obtain public input, and permits legislators to talk to individual constituents about specific proposals.

The restriction on introduction of bills in the second year would perform the important function of limiting and organizing the legislative workload. Additionally, because bills introduced in the second year would not have been subject to interim study, opening it to all legislation would run counter to a most important argument for returning to annual sessions.

Although we can support either of these bills, we have a strong preference for House Bill 213.

We believe restricting the activities of the Legislature in the first session of the biennium, as House Bill 297 does, is not a productive use of the Legislature's time and that the 30 days allowed is probably inadequate for considering budgetary matters.

We think the 60-60 format of House Bill 213, with the limitations

it contains on introduction of bills in the second year of the biennium, is a much wiser approach to annual sessions.

State government each year is called upon to do more and more for the people. Not only is each Legislature asked to act on more and more bills -- the majority of which are legitimate efforts to address real problems -- but also it is faced with budgeting many more millions of dollars.

If the Legislature is to do the best possible job in this increasingly large and complex government, it must return to annual sessions.

The alternative is continued expansion in number and influence of interim legislative committees; where, in effect, the Legislature abdicates its responsibilities to a small percentage of its members.

Also, the second-year session would be composed of all experienced legislators, which should be a major contributory factor toward speedy and efficient action on legislation.

Finally, we are not ignoring the electorate's vote in 1974 to discontinue annual sessions. We believe the 1974 ballot wording was so confusing a number of voters failed to register their true intent. Also, the Great Falls Tribune was not being published in that election period, resulting in that being the only large urban area to cast a negative vote and leaving a substantial number of central Montana voters with inadequate explanation of the issue.

The people deserve another opportunity to vote on annual sessions, with a thorough discussion of the issue prior to the election, and a clearly worded ballot.

This Legislature is the people's branch of government. Annual sessions will permit you who serve to do the best job of representing all the rest of us.

Joey Bruck Exhibit #3

League of Women Voters of Montana

HB 213

Annual Sessions

1977

The League of Women Voters of Montana has given it's strong support to annual legislative sessions for many years. The legislative branch is the citizen's voice in government, and the action of the legislature bears directly upon the life and welfare of the citizens. Therefore, we want to see a strong legislature - one that is as responsive as possible to the well-being and needs of the people of Montana. Can annual sessions do a better job of insuring this than biennial sessions? We think so.

Most of us have heard the merits of annual sessions discussed many times - accountability, responsiveness, efficiency, and many more. These are sound reasons for meeting annually, but there are other points we would like you to consider.

What happens when legislation is passed, and upon implementation, it is found to be unworkable - or it causes much confusion and hardship - or the ramifications were underestimated? We're stuck for two years until the bill can be amended or repealed, or we must bear the cost of a special session. Are difficult and controversial bills getting the attention they would if we had annual sessions? Issues are studied during the interim, but, in biennial sessions, a committee does not report back to the same Legislature. These studies have to be less effective in this type set-up since new legislators are not familiar with the problems and reactions to an issue that occurred in the previous session. And, is it possible the committee reports may suffer because the issue is 21 months older?

The League believes the Legislature should be equal in strength to the other branches of government, but, in a biennial session, the power to act has to be delegated to the Executive Branch during the interim. How can the Legislature take steps to at least partially solve this? Interim committees to study and "watchdog" are necessary, but is the creation of interim committees delegated with the power to control the Executive Branch in some areas the answer? We think not. That direction infringes on the much needed separation of powers and true representation. We think annual sessions is a better direction. It gives the Legislature the strength it needs, separation of powers remains effective, and all citizens are represented in legislative decisions.

All branches of our state government must be run in an efficient and business-like manner for the well-being and needs of Montana and it's citizens to be best in the best possible way. We would like you to consider the points we brought out today, and urge you to support HB 213.

Exhibit #4

HENDRICKSON & BIRD, INC.

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1820 Eleventh Avenue  
Helena, Montana 59601  
(406) 442-5141

March 21, 1977

The Honorable Thomas E. Towe  
Chairman, State Administrations Committee  
Capitol Building  
Helena, Montana 59601

Re: House Bill No. 263

Dear Senator Towe:

On March 19, 1977, I testified in support of House Bill No. 263 and stated that there would be no additional cost if this bill were passed. This oral testimony was supported by my letter of January 25, 1977 to Mr. Al Sampson, representative for the Fire Department Relief Association. After reviewing the provisions of the bill, I am unable to support this position.

Because House Bill No. 263 will allow a fireman to terminate his employment after 20 years and receive one-half of his salary beginning at age 50 without having to work until age 50, an additional annual contribution of approximately 4% of salaries will be required to fund the additional costs created by the bill.

In order to support my earlier testimony that House Bill No. 263 would create no additional cost to the system, the following two amendments must be made on page 3:

(2) The right to receive the pension vests upon the fireman's permanent separation from service, but the payments may not commence until the later of the date he reaches his 50th birthday or the date he would have completed 20 years of service as a member of a fire department had his active duty not been terminated.

(3) The pension shall be paid out of the disability and pension fund and shall consist of monthly payments in an amount equal to the number of years of the fireman's service divided by 20 the number of years of service the fireman would have had if he had remained in active duty as a member of a fire department until the later of the date he attained age 50 or completed 20 years of service and multiplied by one-half of the sum last received by the fireman as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for his services as an active member of the fire department.

Page 2

March 21, 1977

Senator Thomas E. Towe

Presently, firemen must work until at least age 50 to receive full benefits. House Bill No. 263 would allow firemen to terminate their employment after 20 years of service and receive one-half of their salaries at age 50. Therefore, a fireman employed at age 25 could terminate his employment at age 45 and begin receiving one-half of his salary at age 50. In this case the pension fund would not receive any contributions from any source during the years from age 45 to age 50. House Bill No. 263 would offer some savings inasmuch as the fireman's benefit would be based upon his salary at age 45 rather than at age 50 and he would not receive the additional 5% credit for service from age 45 to age 50; however, these savings are not sufficient to offset the lack of contributions during the five year period.

The amendments proposed in this letter would provide the above fireman with 20/25 of his retirement benefit. In this case there would be no additional cost.

Sincerely,



Alton P. Hendrickson, A.S.A.

ejh

cc: Members, Senate State Administration Committee  
Al Sampson, Fire Department Relief Association

HB No. 302

PROPOSED AMENDMENT

1. Amend page 1, section 1, line 18.

Following: "or"

Insert: "bodies, boards, bureaus, commissions, or"

2. Amend page 1, section 1, lines 18 and 19.

Following: "agencies"

Strike: "(as defined in 82-4227)"

3. Amend page 3, section 3, lines 12 and 13.

Following: "agencies"

Insert: "or bodies"

Following: "OF"

Insert: "THE"

Following: "STATE"

Strike: "GOVERNMENT (AS DEFINED IN 82-4227)"

Insert: ", except public agencies or bodies of political subdivisions,"

4. Amend page 4, section 4, line 17.

Following: "body"

Strike: "or"

Insert: ","

Following: "agency"

Insert: ", or organization"

5. Amend page 5, section 5, line 6.

Following: "Any"

Strike: "agency"