

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 5, 1981

The twenty-first meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date, in Room 442 of the State Capitol Building at 10:00 a. m.

ROLL CALL: All members of the committee were present except Senator Jan Johnson.

CONSIDERATION OF SENATE BILL NO. 223:

A BILL FOR AN ACT ENTITLED: AN ACT TO
AMEND THE DEFINITION OF "MOTOR VEHICLE
WRECKING FACILITY.

Senator Chet Blaylock, sponsor of the bill, stated he has had experience helping junk dealers who have problems with the laws as they are now written. The bill excludes those scrap processors who are only in that particular business.

PROPOSERS: Jerold Weissman, Weissman & Sons, defined scrap processor as one who acts as a factory and a processor. A junk dealer has relatively low investment, sells parts from cars to keep older cars going. They are two types and need different legislation.

OPPOSERS: Bill Romine, enclosed testimony. Montana Auto Dismantlers & Recyclers handed out pictures of Weissman crushing cars, etc. He stated the language of the bill is ambiguous. The purpose of the law is to regulate; it was to clear unsightly conditions. He wants the language clarified.

Henry Lohr, Townsend, a recycler who has two yards - one to resell, the other to strip and take to other areas to be crushed--has to buy two different licenses. He enclosed testimony.

Doug Roark, Missoula, Ace Auto Salvage, wants the rigid pressure taken off his business.

Larry Mitchell, Solid Waste Bureau, is neither a proponent or opponent. They are given a definition of a wrecking facility and their purpose is primarily aesthetic. The way the bill is written now is ambiguous.

Minutes of meeting on State Administration

Jerry Weissman stated the question remains, "What is the principle of the business?" His business is regulated 100%, and he felt the opposition is trying to destroy the meaning of the act.

Questions from the committee: Senator Kolstad asked Senator Blaylock if he felt this bill changes the definition of vehicle wrecking facility so that it will be damaging to the act. The answer was no.

Senator Towe asked Mr. Romine if he saw a problem with the definition at this present time. Somewhat, he answered. Senator Towe then asked if he had the problem with Senator Blaylock's language. He answered that last session the addition included them; this bill will exclude them.

Senator Towe pointed out that the proposed language does not include extraction of valuable metals and that Mr. Weissman had suggested the real question is that of the principle business. He questioned that it might be amended.

Senator Story announced that the committee will together approve or disapprove the definition.

Senator Blaylock said the language could be worded to exclude scrap process.

Ryan asked Senator Blaylock if the purpose is to avoid having to pay a \$50 license fee. The answer was no but to avoid building expensive facilities.

Senator Story announced that this bill would not be discussed further at this time and thanked them for coming. He closed the hearing.

CONSIDERATION OF SENATE BILL NO. 298:

AN ACT TO PREVENT THE ADOPTION OF AGENCY
RULES THAT WOULD IMPLEMENT LEGISLATION
PREVIOUSLY DEFEATED BY THE LEGISLATURE OR
A LEGISLATIVE COMMITTEE.

Senator Frank Hazelbaker, District 41, sponsor of the bill, stated that the past legislature passed a procedures act which included rule-making procedures. He read the title realizing the fear that a bill that meets defeat, could be amended and adopted into administrative law. This bill will prevent that.

PROPOSERS: Senator Jean Turnage stated this has not happened in the past. If it did, then the bill would be the case. The problem is that the agencies cannot be controlled from making rules. The purpose of this bill is to control excessive rule making. He emphasized the importance of the lines 13 and 14, stating "unless authorized by law."

February 5, 1981

OPPONENTS: Cathy Swift, attorney, is concerned about additional limitations: no limitation on how far back one can go; many conflicted bills have been introduced, all became specific limitations on the agencies' authority; difficulty knowing what the bills actually are; legislation defeated for a number of reasons. They want to know what their specific authority is and the rule making of agencies should be more clearly defined.

Questions from the committee: In closing Senator Turnage stated there are concerns but they are in the language of the bill. He read the bill aloud.

Senator Hafferman stated the legislature comes to make the law, and the others should not do it.

The hearing was closed on Senate Bill 298.

Senator Story turned the chair over to Senator Kolstad because he had to be excused.

CONSIDERATION OF SENATE BILL NO. 184:

AN ACT TO GENERALLY CLARIFY AND REVISE THE
PROVISIONS RELATING TO EARLY RETIREMENT
OPTIONS, INVOLUNTARY RETIREMENT ALLOWANCES,
AND DEATH BENEFIT PAYMENTS IN THE SHERIFFS'
RETIREMENT SYSTEM.

Senator Frank Hazelbaker, sponsor of the bill, stated this bill is designed to clear defects in the sheriff retirement law.

PROPOSERS: Larry Nachtsheim, PERS, defined the sections one by one noting that the third section is the real crux of the bill.

John Ohstad, Gallatin County Sheriff, and Sheriff Chuck O'Reilly, supported the bill.

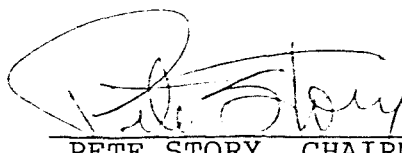
OPPONENTS: None.

Questions from the committee: Senator Hammond asked if this is actuarially sound, and Mr. Nachtsheim stated the sheriff's retirement is sound.

Senator Towe asked if retirement is compulsory at age 65. The answer was yes.

The hearing was closed on Senate Bill 184.

ADJOURNMENT: 10:50.



PETE STORY, CHAIRMAN

STATE ADMINISTRATION COMMITTEE

Date 3-5

Each day attach to minutes.

NAME: William L. Ramirez DATE: 2-4-81

ADDRESS: P.O. Box 1691 Helena

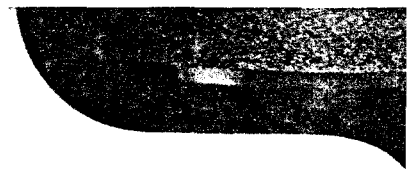
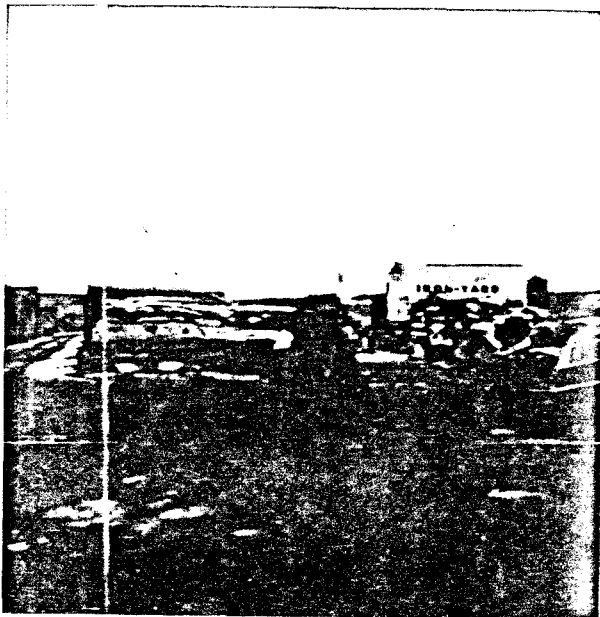
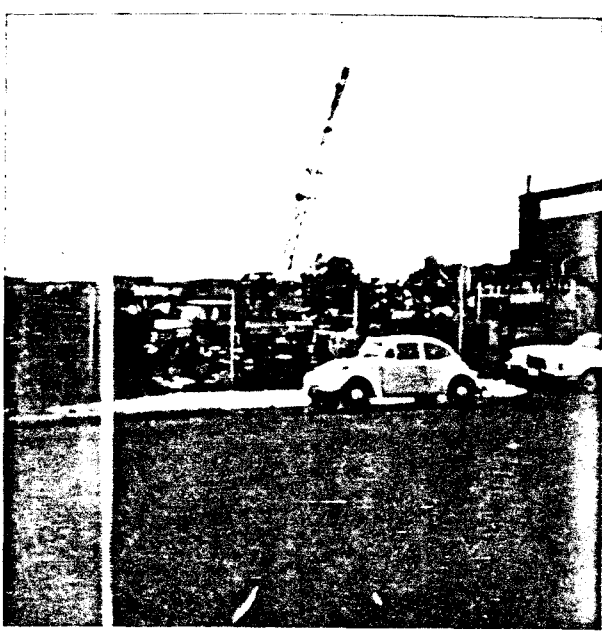
PHONE: 442-2220

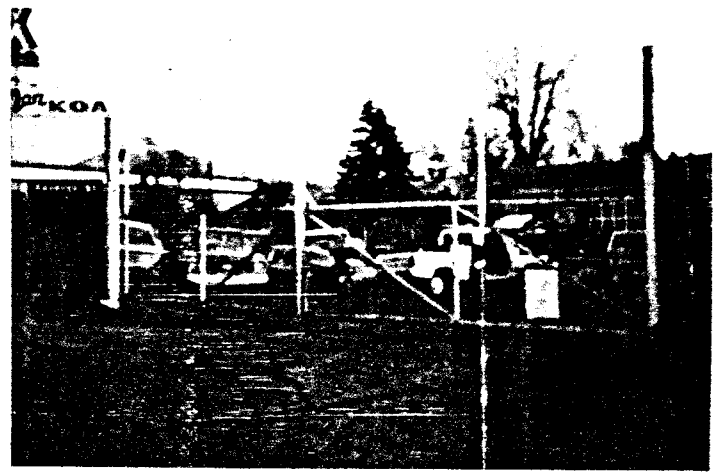
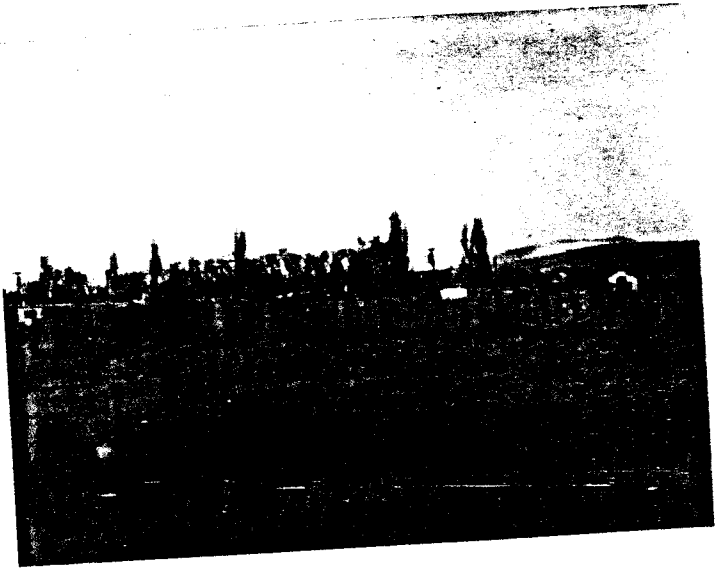
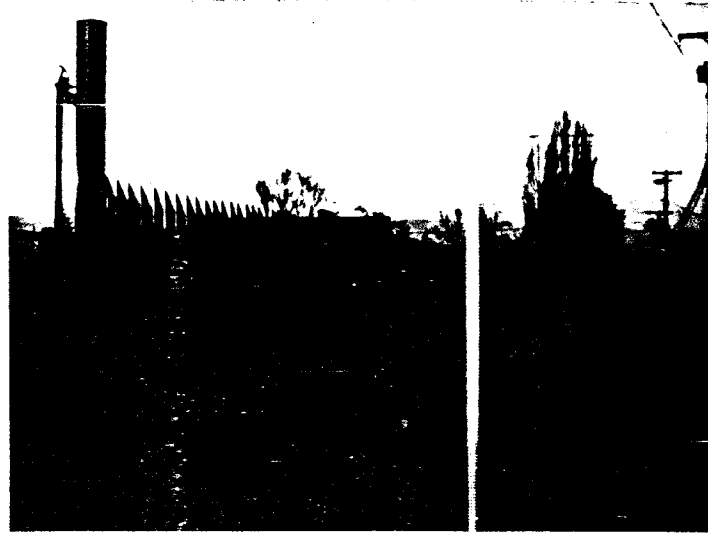
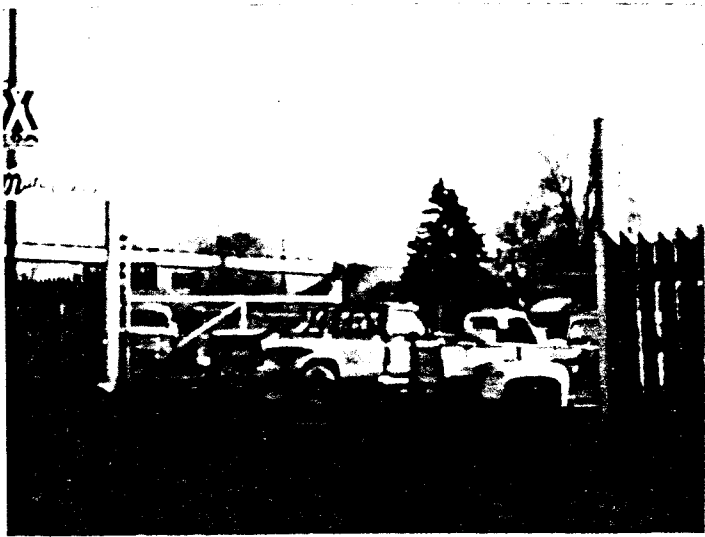
REPRESENTING WHOM? Mont. Automotive Disasters & Recycling Assn.

APPEARING ON WHICH PROPOSAL: S.B. 223

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: used car frames, engines, transmission, axles etc are
just as unsightly if sold as scrap as they are if sold to be re-built.
The scrap yards are in the same business as the wrecking yard is,
the disposal or recycling of automobile component parts. When the
law was changed several sessions ago, the scrap yards were notified,
and given an opportunity to complain, however they did not. Many
wrecking yards sell automobile scrap for the same purpose as
the scrap yards, but because they also sell whole cars for
scrap, they will have to be licensed & screened. The scrap dealer
will not have to undergo the same costs & expenses, & therefore
will be at an economic advantage. Finally, anyone can buy scrap from
a scrap yard, which means that the scrap is not intended solely to be
smelted down.





MONTANA STATE DEPARTMENT OF HEALTH
and ENVIRONMENTAL SCIENCES



YEAR: 1979

FEE: \$50.00

LICENSE NUMBER: 944

TYPE: Motor Vehicle Wrecking
Facility

DATE ISSUED: March 5, 1979

This license issued in compliance with Chapter 410, Montana Session Laws, 1973.
It expires December 31.

Issued by the State Department of Health and Environmental Sciences, Helena, Montana.

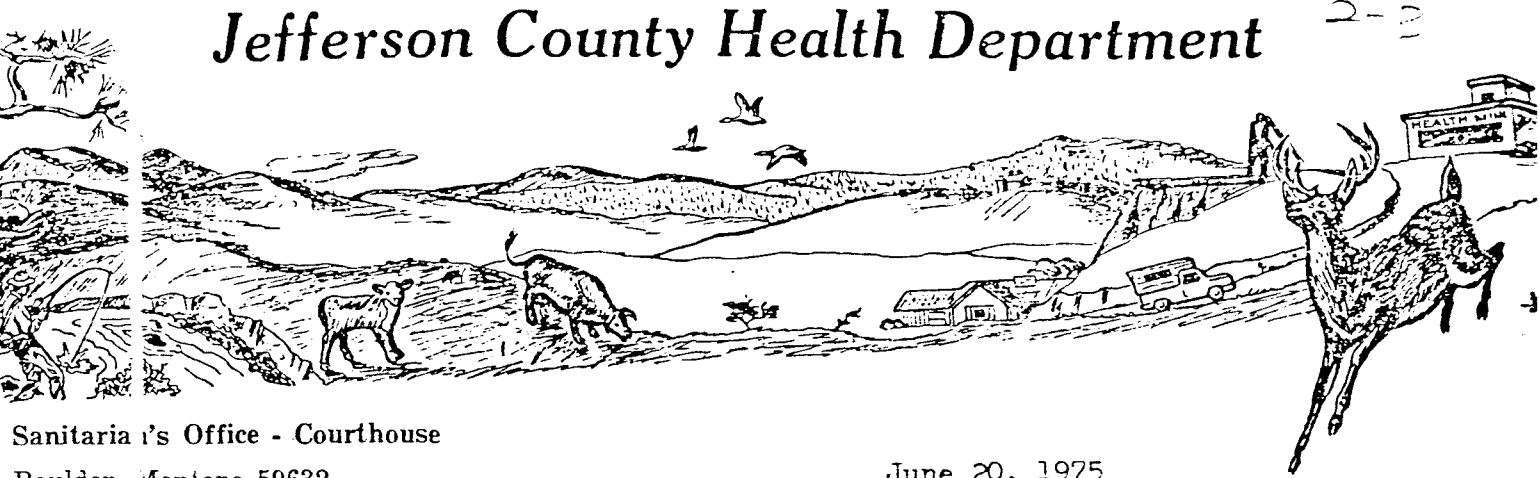
Application for this license has been made in due form by:

Licensee:	Henry E. Lohr
Establishment:	Hank's Salvage and Recycling
Address:	(Yard located 4 miles east of Townsend) P. O. Box 51 Townsend, Montana 59644

Chief *Duane L. Robertson*
Solid Waste Management Bureau
Environmental Sciences Division

THIS LICENSE IS NOT TRANSFERABLE TO ANOTHER PARTY OR SERVICE

Jefferson County Health Department



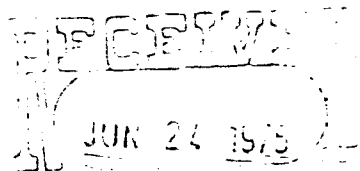
Sanitarian's Office - Courthouse
Boulder, Montana 59632

June 20, 1975

CERTIFIED

Mr. Henry Lohr
Hank's Salvage & Scrap
P O Box 51
Townsend, MT 59644

Dear Mr. Lohr:



It has been approximately one year since you completed salvage operations on junk cars in the Whitehall area. When your operation was completed, you stated that a large number of auto frames that were salvaged would also be moved from the area. These vehicle frames still remain on the outskirts of Whitehall. The present conditions at Whitehall constitute a violation of the State Department of Health & Environmental Sciences, Rule 16-2.14 (2)-S14261, Motor Vehicle Wrecking Facilities.

Within fifteen (15) days from the receipt of this letter you must correct the situation by one of the following methods.

1. Shield from public view in accordance with subsection 2 of Rule 16-2.14 (2)-S14261, and obtain a valid license to operate a motor vehicle wrecking facility at this location; or
2. Remove the motor vehicle frames from the property to a licensed wrecking facility or scrap yard; or
3. Contract with an independent contractor for the removal of the vehicle frames.

If this situation is not corrected within the fifteen (15) days, we will have no other recourse but to take appropriate legal action.

If you have any questions regarding this letter, you may contact me at my office in the Jefferson County Courthouse at 225-3810.

Sincerely,

Cleve E. Johnson, R.S.
Bi-County Sanitarian

CEJ/c
Encl
cc/Vic Anderson, Solid Waste Bureau

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
Environmental Sciences Division
Solid Waste Management Bureau
Helena, Montana 59601

July 7, 1975

Field Investigation

Locality: Henry Lohr's Vehicle Wrecking Facility

Date: June 18, 1975

An inspection was made of Henry Lohr's proposed private motor vehicle wrecking facility on June 18, 1975 by the undersigned. The site is located approximately three miles southeast of Townsend. The proposed facility is in a draw approximately one half mile from the nearest county road. There are presently 70 junk vehicles at this location. The junk vehicles can be seen from the adjacent county road. In shielding these junk vehicles, there is an option of moving the vehicles to another area in the draw, or to construct a fence on one side that will completely shield the junk vehicles.

Compliance and Correction Schedule:

Immediately shield the junk vehicles from public view in compliance with Rule 16-2.14(2)-S14261, Motor Vehicle Wrecking Facilities.

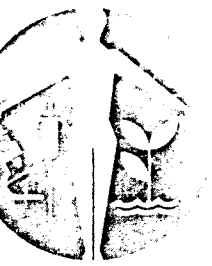
Respectfully submitted,



Duane L. Robertson, R.S.
Solid Waste Management Bureau
Environmental Sciences Division

DLR/lb

Reports To: Henry Lohr, P. O. Box 51, Townsend
Board of County Commissioners, Broadwater County, Courthouse, Townsend
Cleve Johnson, County Sanitarian, P. O. Box 494, Boulder
Vernon L. Swenson, M.D., County Health Officer, Townsend



2-5
Department of Health and Environmental Sciences
STATE OF MONTANA HELENA, MONTANA 59601

John S. Anderson M.D.
DIRECTOR

Solid Waste Management Bureau
1424 9th Avenue
Helena, Montana 59601
Telephone: 449-2821

June 12, 1975

Mr. Henry Lohr
Hank's Salvage and Scrap
P. O. Box 51
Townsend, Montana 59644

Dear Mr. Lohr:

Re: Screening of Motor Vehicle Wrecking Facility

We received your letter of June 9. You say you "will have removed all junk vehicles from my yard this coming week to a location not visible to the public." If this new location is a different location than that area you presently hold a motor vehicle wrecking facility license for, you must apply for a license for the new location, because the license is not transferable (Section 69-6802 (5), R.C.M. 1947.)

I will contact you by telephone after June 17, 1975 to set a time for us to meet and make an inspection.

If you have any questions or comments concerning this matter, please feel free to contact me.

Sincerely,

Vic R. Andersen

Vic R. Andersen, R.S.
Solid Waste Management Bureau
Environmental Sciences Division

VRA:ao

cc: Cleve Johnson, County Sanitarian

Scrap

Licensing of Auto Scrap Firms, Mandatory Record Keeping, Urged

By SHELDON WESSON

WASHINGTON — A system of licensing auto dismantlers, wreckers and scrap processors, with mandatory record-keeping procedures at all levels, was recommended last week by a research firm retained by the Department of Transportation (DOT) to make suggestions for control of traffic in stolen vehicles.

The report, by Arthur Young & Co. of Washington, was given to the Inter-Agency Committee on Auto Theft, terms of recommendations for procedures to be used by the states, within their own borders and in cooperation with each other.

At this time, DOT does not have the power to compel the states to any specific procedures, but can recommend. The department however, seeking authority to have its rule-making become mandatory in the auto-theft prevention and detection area.

In addition, the inter-agency committee has been discussing Federal legislation in the area of vehicle identification and registration of businesses.

One procedure suggested by the Young study would require that there be a mandatory "waiting period" between the time a dismantler or scrap processor receives vehicle hulks or parts and the time he puts the material either into the dismantling or scrap processing system. This period might be 24 to 72 hours or even something like 10 days. Its purpose would be to allow

time for the material to be available for inspection by police or other authorities before resale or before losing its identity in the processing system.

This proposal brought immediate protest from Russel F. McKinnon, executive vice-president of the Automotive Dismantler and Recyclers of America (ADIRA), who was the only industry representative present at the briefing.

Dismantlers want to put newly-received hulks into process within hours, McKinnon said, noting that they are not in the business of storing material.

The Young study suggests that the original title for a car be surrendered at the time it enters the dismantling or scrap processing system, and that a salvage certificate be issued in its place. The salvage certificate would then be surrendered when the hulk was dismantled or shredded.

Asked how this certificate could follow several re-sold components and/or scrapped parts — all of which might move in different directions — the Young researchers said that they had not gone deeply into that question. Their mandate, they pointed out, was to recommend means of avoiding the re-use of scrapped vehicle identification for the subsequent fraudulent documentation of stolen vehicles.

The study recommends that record-keeping requirements for dismantlers and scrap processors include listing the source of all parts and hulks coming into the premises, and their location in the yard until they are disposed of.

The researchers were "dissuaded from recommending that all parts of a vehicle be identified by number" on grounds that "it would not be worth the trouble" to go that far,

they said. The researchers said they did not recommend the numbering of parts that would later be subject to cutting-up, but they did recommend the keeping of records showing the source of parts in inventory.

McKinnon told the meeting that his members would favor the establishment of an audit chain which would trace the ownership of a car and its parts continuously through ultimate disposal.

The licensing recommendation was described as being over and above the ordinary license to do business, and should involve periodic inspection by state authorities, the Young firm said. In another context, they described the licensing procedure as "assisting these businesses to police themselves," apparently taking note of ADIRA's own certification program for members.

As the discussion moved into the intricacies of tracing parts through the salvage, scrap and possible rebuilding areas, the DOT officials pointed out that this might have to be the subject of a separate study, since it went beyond the scope of the Young recommendations.

NAME: William M. Smith DATE: FEB 5 1981

ADDRESS: 111 S. 1st St.

PHONE: 405-5400

REPRESENTING WHOM? DEPT. OF STATE

APPEARING ON WHICH PROPOSAL: SB 200

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: One amendment - all in notes

Law. Nachtsheim
2/5/81

S.B. 184

2-5-81

PURPOSE: An Act to generally clarify and revise certain sections of the Sheriffs' Retirement System regarding retirement options and death benefits.

Section 1. More clearly defines the actuarial reduction for members retiring prior to normal retirement age.

Section 2. This is the involuntary retirement provision which currently provides an actuarial equivalent benefit without stating age or the method of actuarial reduction. The limit to this provision would provide an involuntary retirement benefit at age 55 using the actuarial reduction defined in Section 1.

Section 3. This is the death benefit payment section and it has been amended to provide a benefit of 25% of salary for beneficiaries for sheriffs who were killed in the line of duty.

PROS AND CONS: Section 1 has been amended only to clarify the language. Current hearings in the Highway Patrolmen's Retirement System have led us to believe this language is ambiguous and not specific enough to administer equitably.

Section 2. The involuntary provision had basically the same problems as the early retirement provision and we feel the recommended amendment will clarify and provide administrative guidelines in interpreting the involuntary retirement provision.

Section 3. The death benefit payment in the Sheriffs' System currently has a provision for offset against Workers' Comp. benefit in a duty-related death with the level of payments under the Workers' Comp. section. The offset completely eliminates any payments from the retirement system. Therefore, beneficiaries for Sheriffs in a duty-related situation receive no benefit from the Sheriffs' Retirement System. The proposed amendment would provide two forms of benefits: One for a member who dies before they are eligible for retirement. Section 3 provides a benefit of 2% of final salary for each year of service up to a maximum of 25 years of service. This benefit is reduced actuarially from age 65. The second form of benefit provides 25% of salary for the beneficiary of a member whom the Board finds to be deceased due

to an employment-related accident.

PROS AND CONS: The first two sections are to clean up language and provide a statutory basis for actuarial reductions for earlier and voluntary retirement benefits. The third section provides a new death benefit as the old benefit did not lend itself to equitable administration.

FINANCIAL IMPACT: The financial impact of the bill has not been measured by the actuary but since the inception of this system in 1974, we have had two duty-related deaths.

PRIOR LEGISLATIVE HISTORY: Sections 1 and 2 have been amended to agree with amendments offered in the Highway Patrolmen's Retirement System providing basically the same early retirement and involuntary retirement provisions.

Section 3 has been amended several times attempting to find an equitable death benefit payment for beneficiaries of a deceased sheriff.

EXAMPLES OF HARM: Under the current provisions the sheriff of Beaverhead County who died as a result of a heart attack while conducting a search in a mountainous area of Beaverhead County. His beneficiary would not be eligible for a benefit under the current Sheriffs' Retirement System as his wife would receive payments from the Workers' Comp. in excess of what he would be eligible for in the Sheriffs' Retirement System, therefore, there is no payment from the Sheriffs' Retirement System.

INTERESTED PARTIES: The Montana Sheriffs' Association.

NAME: Larry Nachtman DATE: 2/5/81

ADDRESS: 1712 Ninth Ave Helena

PHONE: 449-3157

REPRESENTING WHOM? PERD

APPEARING ON WHICH PROPOSAL: SB 184

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: Written

DATE

2-5

COMMITTEE ON

BILL NO.

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Dee Hermes	Senator Towe	-	-
Turner	Spencer SB 2028	-	-
Layla	LWV of Montana	-	-
L. J. ...	Dept. of ...	-	-
Leslie Remington	Secretary of State	-	-
Pat Stuart	Wet Land Council	-	-
Christine Coadge	LWV of Flathead Co.	-	-
Anna ...	LWV of ...	-	-
Patricia von Bergen	LWV Flathead Co.	-	-
John Kneiberg	LWV Flathead Co.	-	-
LARRY MITCHELL	SOLID WASTE BUREAU	-	-
John Oustad	Gallatin County Sheriff	SB 184 ✓	-
Paul ...	CARC WEISSMAN & Sons	-	-
Henry E. Lohr	Hank's Salvage & Recycling	-	SB 223
DOUG BOARK	ACE AUTO SALVAGE	-	SB 2003
W. C. ...	Mont. Auto Remanufacturers & Recyclers	-	SB 223

(Please leave prepared statement with Secretary)

DATE 2/5/81

COMMITTEE ON _____ BILL NO. 180

BILL NO. 184

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)