

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 9, 1981

The twenty-third 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 Kolstad and Senator Ryan.

CONSIDERATION OF SENATE BILL NO. 232:

AN ACT AMENDING SECTIONS 19-3-801 AND 19-3-805, MCA, TO INCLUDE THE AMOUNT PAID BY THE EMPLOYER FOR ADMINISTRATIVE EXPENSES FOR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM IN THE EMPLOYER CONTRIBUTION RATE AND TO PROVIDE AN EARLIER DATE FOR PAYMENT OF MEMBERSHIP FEES; REPEALING SECTION 19-3-303, MCA; AND PROVIDING AN EFFECTIVE DATE."

Senator Lawrence Stimatz, District 43, sponsor of the bill, stated this bill needs minor changes in the retirement to make it conform and for better administration.

PROPONENTS: Larry Nachtsheim stated this bill will bring it into conformity with what the legislative auditors suggest. He explained the date was changed because July is the biggest accounting time for them, and the majority of schools do not have a payroll in July.

OPPONENTS: None.

Questions from the committee: Senator Towe asked Mr. Nachtsheim what is being repealed. He answered 19-3-303 refers to administrative expenses.

ACTION ON SENATE BILL 232: Senator Towe moved it DO PASS. It was seconded and carried by unanimous vote by those present.

CONSIDERATION OF SENATE BILL 350:

AN ACT PROVIDING FOR THE DISTRIBUTION OF ADMINISTRATIVE EXPENSES OF THE PUBLIC EMPLOYEES' RETIREMENT DIVISION OF THE DEPARTMENT OF ADMINISTRATION AMONG THE JUDGES', HIGHWAY PATROL, SHERIFFS', GAME WARDENS', AND MUNICIPAL POLICE RETIREMENT SYSTEMS.

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Senator Stimatz, sponsor of the bill, said this bill conforms the language of the five retirement systems that are administered by the PERS. The bill makes the language read the same way for administration purposes.

PROPOSERS: Larry Nachtsheim explained the bill and pointed out on July 1, 1981, the law will change and it must be paid every month, whereas in the past it was paid quarterly. It will not change any money they receive.

OPPOSERS: None.

Questions from the committee: Senator Towe asked Nachtsheim if he correctly understood the interest income will pay the administrative expenses and they do not anticipate asking for money. He answered that it could be left for unfunded liabilities. There was another question from Towe asking if the same language could be struck on page 3, line 11. Nachtsheim said there would be no problem.

In closing Senator Stimatz said they do have no objections to an amendment to delete the last sentence from line 11, page 3.

ACTION ON SENATE BILL 350: Senator Towe moved the above amendment. It passed unanimously. He then moved the bill DO PASS, AS AMENDED; unanimously done so.

CONSIDERATION OF SENATE BILL 266:

AN ACT TO REQUIRE LEGISLATIVE APPROVAL FOR
ACQUISITIONS OF REAL PROPERTY BY THE UNITED
STATES GOVERNMENT OR BY AN AGENCY OF THE STATE
GOVERNMENT.

Senator Gary Lee, District 17, stated there is a great concern of the amount of government-owned land, and he wishes to see some type of control placed on it. The legislature has some control but by putting the law into the statutes would help recognize the seriousness of the situation.

PROPOSERS: Mons Teigan would like the highway department excluded and pointed out that subsection 3 of section 2 should be left out.

James R. Beck, Department of Highways, read his enclosed testimony.

OPPOSERS: Mike Young opposed for long-range building programs. This adds delay to the building process plus the increase in cost.

Larry Tobiason opposed for the same reasons as Mr. Beck. They would support an amendment to the bill that would eliminate the highway department from this bill.

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Harold Paulsen, Highway Users, stated it would make it difficult for making decisions. He urged an amendment to delete the highway department.

Dr. John Richardson, University system, stated this bill would require state approval of property purchases within approved campus boundaries possibly in conflict with the constitution.

Phil Hauck stated that unless the long-range program could be exempted, it would be detrimental to it.

Questions: None.

In closing, Senator Lee handed out copies of the constitution pointing out the last paragraph on page 17, which is the gist of the state of Montana. He would suggest that any exclusions of the bill would make it unusable. He suggested that the groups that have testified are spending public money and that money should be approved by the legislature. In this bill the United States will buy or change the status of the property they now own.

Senator Towe asked Senator Lee to respond to Beck and Young's point of the buy-sell process of delay. Lee said they should have long-range plans and not anticipate a delay, indicating they could obtain a blanket approval before they received dollar value. The legislature should keep track of it. Senator Lee is against exclusion.

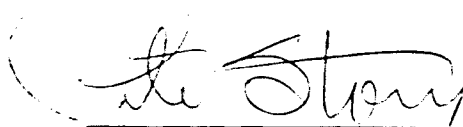
Senator Towe asked Mr. Beck if Senator Lee's suggestion could be used, and he said slides prevent progress because they have to buy additional property but have to pay off the costs. Senator Lee thought these details could be worked out.

Senator Towe asked Dr. Richards about this, and he responded that the University system would not have the same problems as the highway department.

Senator Hafferman asked Senator Lee if he would be against the exclusion of the highway department. He answered yes.

The hearing was closed.

ADJOURNMENT: 11:00.



PETE STORY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2-9

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.		✓	
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson	✓		
Senator Patrick Ryan		✓	
Senator Thomas Towe	✓		

Each day attach to minutes.

S.B. No. 266 would have a profound impact upon the Department of Highways. As I understand the bill, no state agency could acquire real property by purchase or condemnation without the prior approval of the legislature, as evidenced by a specific appropriation for each acquisition.

The Department of Highways has an ongoing construction program that requires the purchase or condemnation of parcels of real property. The number of parcels of this size will vary, depending upon the location and nature of the project being constructed. For example, in the last two calendar years the Department has acquired 377 parcels in 1979 and 382 parcels in 1980.

As you know, in order to purchase property an appraisal is made, negotiations are conducted, and the money is paid to the landowner. If this fails, and the two parties cannot agree upon a price, the property is acquired by condemnation. The law is unclear as to how these appropriations will be made. Will the budget request be submitted after the negotiations are completed? If that is the case, then the landowners will have to wait a long time in order to get their money. In addition, the Department will not be able to get possession of the property due to the Constitutional provision, Art. II, Sec. 29, which requires that compensation must first be made or paid into court. This would, of course, create untold problems in attempting to coordinate highway construction.

If the budget request is made prior to the acquisition, then the flexibility in negotiations is lost. The landowner will probably settle for nothing less than the full amount, and if that does not satisfy him, then the case goes to court. This again will create additional expense and litigation. It might also result in lobbying by the landowners for increased appropriations for their particular parcel.

If a prior budget request is made, the parcel is condemned and the jury awards more than the appropriation; what happens? It appears that the agency must then go back to the legislature and request more money. In the meantime, the project is held up because the agency cannot obtain possession of the land.

As you know, it takes a considerable period of time to plan, purchase the right of way, and construct a highway project. I think that it is safe to say this bill, at a minimum, would add two years to that process.

JRB:snk:8AA

NAME:

DATE: _____

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

THE CONSTITUTION

OF THE

UNITED STATES OF AMERICA

With All Amendments to July 1, 1957.

(This Constitution was drafted by the Constitutional Convention which convened at Philadelphia on May 25 and adjourned on September 17, 1787, and became operative when ratified by 9 of the 13 states. The government created by the Constitution began operations on March 4, 1789. In the following draft, those parts which have been superseded by later amendments are enclosed in brackets.)

PREAMBLE

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I

1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

[Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.] The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand but each state shall have at least

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

8. The congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States, but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion.

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the

United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

9. The migration or importation of such persons as any of the states now existing shall think proper to admit shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign state.

10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate, shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. And if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the ease of removal, death, resignation, or inability both of the president and vice-president, declaring what officer shall then act as president, and such officer shall not accordingly, until the disability be removed or a president shall be elected.

DATE _____

2-9-81

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

February 4 9

1981

MR. **PRESIDENT**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE** Bill No. **1832**
232

Respectfully report as follows: That **SENATE** Bill No. **1832**
232

DO PASS

STANDING COMMITTEE REPORT

FEB. 9 1901

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

SENATE
having had under consideration Bill No. 350

Respectfully report as follows: That SENATE Bill No. 350

introduced bill, be amended as follows:

1. page 3, line 10.

Following: "chapter."

Strike: the following sentence

AND, AS SO AMENDED

DO PASS

PC.