

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on February 3, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies, Staff Researcher

Announcements/Discussion: Chairman Brown announced that Rep. Gilbert's bill, HJR 7, would be postponed until Wednesday, February 8. There were several phone calls received yesterday from opponents to the bill, who are unable to be here today. At the Speaker's request, he agreed to postpone the hearing. Chairman Brown said that if there were people there that wanted to testify for or against HJR 7 and would not be able to be here on Wednesday, they could testify now. No one requested to testify.

Chairman Brown said the Committee could not take action on HB 407 because an amendment is being worked on by Don Judge, Dolores Colburg and the sponsor. The Committee will wait to act on Rep. Hannah's HB 428 on abolishing the commissioner of campaign practices next week. Chairman Brown asked the Committee if there was anybody else the Committee would like to have present, besides Dolores Colburg, to ask questions at next week's meeting. Rep. Whalen said Rep. Hannah should be notified.

HEARING ON HB 298

Presentation and Opening Statement by Sponsor: Rep. Mac McCormick, House District 38, Great Falls introduced the bill. This bill requires the county election administrator to close voter registration 45 days (rather than 30 days) before an election. Rep. McCormick said that the reason he introduced the bill is because the absentee ballot cannot be moved because of the "overseas boys." Time must be allowed to send the ballots "over there" and get them back again.

Testifying Proponents and Who They Represent: None

Proponent Testimony: None

Testifying Opponents and Who They Represent:

Paul Russell Brown, Montana Democratic Party

Mike Craig, Associated Students University of Montana

Opponents who Wished to Testify but Were in Another Hearing:

C. B. Pearson, Common Cause

The Montana Clerk and Recorders' Association

Opponent Testimony:

RUSS BROWN said the Montana Democratic Party opposes the bill because, even though they understand that there is a problem out there, they believe that the "cure" is worse than the problem. He said that they will be working with the clerk and recorders over the next several years to try to address that problem.

MIKE CRAIG said that the Associated Students of the University of Montana opposes the bill primarily because they have two student groups that launch massive voter registration drives after school begins before every general election. He said that if voter registration is turned back 15 days, they would not be able to do the voter drives.

Questions From Committee Members:

REP. SPRING asked Rep. McCormick if the only reason for the bill to change the registration closing date is for the overseas voters. REP. MCCORMICK said that the overseas ballots concern absentee ballots and that cannot be changed. "The way it is now you have to have absentee ballots ready 15 days before the closing of the registration, and we can't move the absentee ballots because they won't have time to get overseas and back again. My problem, which I didn't explain, is everybody registers the last day. If you were living out of town, and you weren't registered, and I turned in your registration card, and you went to Colstrip. If you wrote for an absentee ballot, they wouldn't have your card "worked;" therefore, you would get a ballot from where you lived the last time. This happened to me. The registration girl asked me to straighten this out. That is why I am here."

REP. BROWN asked Rep. McCormick if he had any proponents for the bill that were unable to attend due to the weather. Rep. McCormick said "no, I am the lone wolf."

Closing by Sponsor: Rep. McCormick said that he knows the bill is bad because it really doesn't make any difference when you close registration because everybody waits for the last day.

DISPOSITION OF HB 298

Motion: Rep. O'Connell moved HB 298 DO NOT PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED 16 - 2, with Reps. Campbell and Roth voting no.

HEARING ON HB 302

Presentation and Opening Statement by Sponsor: Rep. Ed Grady, House District 47, introduced the bill. This bill provides a minimum monthly retirement allowance to the following retired game wardens or their beneficiaries: (1) a game warden who is 55 years or older and who is receiving a service retirement allowance, unless he is employed in a position covered by another Montana public employee retirement system and (2) a game warden who is receiving a disability retirement allowance. The minimum monthly retirement allowance may not be less than 2 percent of a probationary game warden's base salary on July 1, 1989, for each year of a member's creditable service.

Rep. Grady distributed an explanation of the bill (Exhibit 1), which he read to the Committee. Rep. Grady also had an amendment (Exhibit 2), which he stated was necessary to protect the present retirees. Rep. Grady presented a letter from Thomas E. Schneider, Executive Director, Montana Public Employees Association, concerning the number of years necessary to amortize the unfunded accrued liability (Exhibit 3).

Testifying Proponents and Who They Represent:

Robert VanDerveer, himself

Orville Lewis, himself

Fred Patten, American Association of Retired People

Don Brown, himself

Donald W. Wright, himself

Proponent Testimony:

ROBERT VANDERVERE said that he is a concerned citizen lobbyist and that without the game wardens we wouldn't have the game today that we do. He said that they have done a wonderful job. He said it will not cost the general public one cent, and it is about time that a bill comes in that is not trying to get into the public's pocket.

ORVILLE LEWIS said he is a retired member of the warden retirement system. He said that the bill does not affect him, but it will correct an urgent need for the older wardens who retired a number of years ago. He urged passage of the bill.

FRED PATTEN said that he supports the bill and urged a do pass.

DON BROWN said he was a warden in 1931 and was chief of law enforcement and deputy director and director. He said the bill affects him, \$25, he thinks. He said that he is ashamed that over the many years he didn't work harder to help the wardens that are down in the \$297 - \$350 retirement range. Many of them have died, and many are still living on an extremely low pension. He said he would like to ask the Committee's support in passing the bill. When you break the cost down to what it would be annually, it really does not require very much money.

DON WRIGHT said he was retired from the Fish and Game Department. He said he could only echo what has been said before him and lend his support to this bill.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. DEBRUYCKER said he was not against the bill but said he had several calls from people at home that were concerned with the fine going into the retirement system. Would there be a problem with that? Rep. Grady said that lots of retirement systems are funded that way. He said he thinks it is one of the best ways to do it. REP. DEBRUYCKER said that the callers seemed to think that possibly this would lead to a game warden being "a little overambitious" to build their retirement. Rep. Grady said "no, he didn't think that they were out there trying to find a bunch of people to fine to raise money for their own retirement system."

REP. O'CONNELL asked Larry Nachtsheim to speak on the bill. Mr. Nachtsheim said that Public Employees' Retirement System does not have a position on the bill as the monies are coming from fines and forfeitures. He said that in reference to the question regarding fines and forfeitures, that in the last couple of months a suit had been filed on this. The man that filed the suit questioned if there wasn't a conflict of interest in the game wardens collecting

finances for enforcing the game laws. The primary premise is that the amount of fines does not affect their retirement "one iota" as their retirement is guaranteed by the overall funding of the retirement system.

REP. DAVIS said he is not opposed to the bill if there is any reasonable assurance that the fines will remain stable enough to fund the bill without having to ask for funds from elsewhere. Larry Nachtsheim responded saying that the fines and forfeitures are not the exclusive funding for the game warden's retirement benefit. An amount equal to 7.9 percent of salaries is collected from employees; that 7.15 percent is collected from the game wardens, exclusive of the fines and forfeitures. He said that right now the system is in good shape and primarily what is going toward funding in those systems is from investments.

REP. PHILLIPS asked Mr. Nachtsheim about when these fines are to be discontinued? Mr. Nachtsheim said that the Legislature was running short of funds, so they provided a funding mechanism requiring fines and forfeitures to be deposited in the retirement fund. The Legislature provided that when the system becomes fully funded, then the fines and forfeitures would go to the Fish and Game Department to be allocated elsewhere.

Rep. Grady said that Orville Lewis, a retired game warden, would like to add to the discussion. Mr. Lewis said that he would like to answer how much money went into the retirement fund from the fines. He said that the amount has been running just over \$200,000 each year; it has been up around \$230,000 at times. Mr. Lewis said he worked at the Fish and Game Department all during the time that the fine money has been paid in. All the people involved realize that the retirement law says that the Fish and Game Department and the state of Montana will fund the system. The fine money is just the mechanics of funding the system, it doesn't really make any difference to the wardens whether fine money or whatever money goes in there. The state is required to put it in. There is really no incentive for a warden to go out and make arrests to increase the fine money.

Closing by Sponsor: Rep. Grady said that he thinks the Committee can see that there is a real disparity here. He asked for a do pass with the amendment.

DISPOSITION OF HB 302

Motion: Rep. O'Connell moved HB 302 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: Rep. O'Connell moved the sponsor's amendment. Ms. Menzies explained that the

amendment would ensure that no retiree's benefit would be reduced by implementation of the bill.

The motion on the amendment CARRIED 17 - 1, with Rep. Campbell voting no.

Recommendation and Vote: Rep. O'Connell moved HB 302 DO PASS AS AMENDED. The motion CARRIED unanimously.

HEARING ON HB 317

Presentation and Opening Statement by Sponsor: Rep. Ralph Eudaily, House District 60, Missoula, introduced the bill at the request of the Teachers' Retirement Board.

This bill, requested by the Teachers' Retirement Board, revises the definition of "average final compensation." A member's final average compensation, which is the average of the member's three highest consecutive years of compensation, is used in calculating his or her retirement benefit. This bill limits the amount of each year's earned compensation that may be used in the calculation of a member's final average compensation. Earned compensation in excess of these limits is treated as termination pay.

Rep. Eudaily said that he is especially interested in this legislation as he has made it a priority in his legislative years to do everything in his power to keep the Teachers' Retirement System sound and safe for all Montana teachers. This is one more effort to plug up a loophole in the system that a few members have used to the detriment of all other members in the system. The first part of the title of the bill is actually trying to limit the compensation that may be used in the calculation of retirement benefits. The title of the bill goes on to define any amount in excess of the limit as termination pay. There is an immediate effective date so that the people retiring this year hopefully will not find the loophole and take advantage of the system. This system covers a lot of teachers in the state. A lot of retired people are affected by the system. If we don't keep it safe and actuarially sound, a lot of people will get hurt down the line.

Testifying Proponents and Who They Represent:

David Senn, Executive Secretary, Teachers' Retirement Board

Henry Badt, Montana Association of County School Superintendents

Phil Campbell, Montana Education Association

H. S. Hanson, Montana Technical Council

David Evenson, Montana University System

Proponent Testimony:

DAVID SENN presented written testimony (Exhibit 4).

HENRY BADT said the it is a mission with him also this year to stop some of the inequities and loopholes in the Teachers' Retirement System. He went through the following example of an actual contract for a district superintendent upon his retirement: The superintendent's salary is \$58,000 per year; he has a health/life insurance policy costing the district an additional \$200 per month. He has 10 days emergency leave and 4 days of personal leave. There is a statement in his contract that no benefits may be reduced in subsequent contracts. His termination pay is calculated as follows: he receives 60 days of accumulated vacation at the current salary of \$260 per day for a total of \$15,813. His sick leave pay is retroactive (1 day per month), with no limitations, and is paid at the rate of one-quarter salary. One-quarter salary is \$65.90 x 180 days (the individual is in the district 16 years and could have accumulated 180 days) equals \$11,861. Then for each \$1,000 intermination pay that is paid, the district must pay \$750 to the retirement system for a total of \$20,759. This is quite a contract.

What is hard for retired teachers to understand is that the beginning teacher receives less than \$16,000, which isn't so bad, but the maximum for a teacher in that district is about \$28,000. They have no termination pay. They do receive severance pay, which is about \$5,800. The district does not pay into retirement for them. So if they want to add that to their retirement, they have to take it out of their own pocket and put it into retirement.

PHIL CAMPBELL said that the Montana Education Association supports the bill. He said he worked with the people at the Teachers' Retirement System. He said that it is not teachers that take advantage of the loophole as they are pretty well "socked in" with the contract limitations that they have. It is the administrators who have the flexibility to work a deal with their school district to take advantage of the loopholes. He asked support for the bill.

H. S. HANSON said he represents the Montana Technical Council and one of the associate members is the engineers' organizations. He said he wants the Committee to be aware of an issue and hopefully to make amendments. Mr. Hanson said that those teaching engineering courses at Montana State University and Montana Tech are not part of the collective bargaining unit; they are excluded from membership. In addition, the engineers do a lot of research grant operations. They have additional incomes based on

research grants. The 110 percent that is provided in this bill will affect their incomes as one year their income is up and the next year it is down because of the research grants.

DAVID EVENSON said he was representing the Montana University System. He said he understands the reason for the bill and is sympathetic with its purpose. The Montana University System does not believe that the Teachers' Retirement System should be abused. His organization's concern is that there is some balancing that has to be considered by the Committee. For that reason he would like to propose some amendments (Exhibit 5), which were distributed to the Committee. Mr. Evenson said that retirement is a big issue with most people. The typical middle-class American finds that the largest asset he acquires over his life time is the value of his retirement benefits; the second largest benefit is typically the equity in his home. For that reason any changes in retirement should be examined carefully.

Mr. Evenson said that the faculty and staff have focused on one particular item on page 2, lines 18 - 23. This language is an invitation for promotion of collective bargaining. The faculty at the universities are not part of a collective bargaining unit; there is non union faculty at Montana Tech and also a number of administration and staff people who are not part of the bargaining unit. There is concern that a two-tier system is being created here that favors collective bargaining. People that are not a part of collective bargaining will be out. Another concern is that there are situations where legitimate promotions or changes in duties or responsibilities in the last year or two of the working career do occur, and the bill as written does not recognize that. These people would be penalized. Mr. Evenson asked for consideration of the amendments.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. PHILLIPS asked Rep. Eudaily if the amendments take a lot away from the bill. Rep. Eudaily said that was the feeling of the Teachers' Retirement System.

Closing by Sponsor: Rep. Eudaily said, "I do have a little sympathy with the last-year promotions, but not a whole lot because of the fact that we're heading for the same place as a lot of fire departments have. There is hardly anyone retiring, especially in smaller places, in a fire department that doesn't retire as a chief. It seems they move them up to the position of chief the last year, and then they can retire at the chief's salary. That is what is happening here. When people get a real promotion the last couple of years, this is the way to repay them for their years of service. If there is a fairer way to do that, I wouldn't

object too much." But he said he does object when he reads in the paper that a professor gets \$15,000 increase in salary, and it just happens to be in the last year or two that he was there. "If that person is that valuable to the district, they should have been paying him that all the way through." Rep. Eudaily asked the Committee to look at the amendments and see if they do what this bill started out to do, which is to protect the system as much as you can.

DISPOSITION OF HB 316

Chairman Brown said due to a large backlog of bills, HB 316 would be put in a subcommittee to deal with the amendments and to check with the sponsor and those that proposed the amendments. The following are members of the subcommittee: Rep. Cocchiarella (chairman), Rep. Davis and Rep. Phillips.

HEARING ON HB 314

Presentation and Opening Statement by Sponsor: Rep. Richard Nelson, House District 6, Kalispell and the north Flathead County, introduced the bill. The bill, requested by the Teachers' Retirement Board, makes several changes to the laws governing the Teachers' Retirement System. Rep. Nelson said that the bill covers a number of different items and is a housekeeping bill.

Testifying Proponents and Who They Represent:

David Senn, Executive Secretary, Teachers' Retirement Board

Proponent Testimony:

DAVID SENN said that the bill is a housekeeping one. He said that they are cleaning up a number of things that came to his attention three years ago when he took the position of executive secretary. Mr. Senn said they are also cleaning up some things that the federal government and Internal Revenue Service required to be changed due to their definition of earnings and taxation of those things. Mr. Senn distributed testimony from the Teachers' Retirement Board explaining the bill (Exhibit 6).

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. ROTH asked Rep. Nelson how much will this bill cost and if it would be coming from the retirement system itself. David Senn responded saying, "There is no cost to the TRS at all. It will all be handled within the existing appropriation."

REP. WESTLAKE asked Mr. Senn to explain the section dealing with substitute teachers electing retirement benefits after

30 days. Mr. Senn said that substitute teachers have the election of choosing whether they wish to join the TRS on the very first day; on the 31st day membership becomes mandatory as do many other things in the school district for an individual who has been there over 30 days. Mr. Senn said that the substitute teacher may then elect to go back and cover those 30 days, but they are only going to pay the contributions based on the salary they earned for 30 days. So if they are paid \$50 a day, they will pay the combined employee and employer contribution rate, which is 14.72 percent.

Closing by Sponsor: Rep. Nelson said that around his house that usually any housekeeping project ends up in the trash can. He said that he hopes that is not the case with this bill. He asked the Committee to "make a clean sweep" with this bill and give it a do pass.

DISPOSITION OF HB 314

Motion: Rep. Hayne moved HB 314 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

DISPOSITION OF HB 412

Hearing Date: February 2, 1989

Motion: Rep. Campbell moved HB 412 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED; 16 - 2 with Reps. Squires and Cocchiarella voting no.

DISPOSITION OF 387

Hearing Date: February 2, 1989

Motion: Rep. Campbell moved HB 387 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED, 15 - 3 with Reps.

Gervais, Whalen and Phillips voting no.

DISPOSITION OF HB 278

Hearing Date: February 1, 1989

Motion: Rep. Campbell moved DO PASS.

Discussion: Lois Menzies and Marvin Eicholtz, Department of Administration, drew up a "gray bill" (Exhibit 7) and distributed it to the Committee.

Amendments, Discussion, and Votes: Rep. Campbell moved the amendments as presented in the "gray bill."

REP. DEBRUYCKER asked for clarification of "when the bids are open someone else can be there with their proposal? If they are going to be there with their proposal, they might as well be there with a bid." Marvin Eicholtz responded: "There are two things going on here. One is what you normally see in bidding for products where it is basically the lowest price. That is how we make our selection. But a proposal is a little bit different. There are probably four or five different criteria we examine in order to make the award, and price would be one of those. I think generally if this bill were enacted, in the area of the proposals, we would probably not have that much activity. This would refer more to the situations where we have a bidding situation on low prices. Normally if it is a proposal, that vendor will be there with the requested proposal, and we would evaluate it that way."

REP. SQUIRES asked if there is a dollar limit to the purchases in this bill. Mr. Eicholtz said that in the sealed bidding process, which is what this bill is basically referring to, it is \$2,000. Anything less than \$300 you can just go out and buy without bids. From \$300 to \$500, you must have at least three phone quotes. From \$500 to \$2,000 you must have three written quotes. The sealed bid process kicks in at \$2,000. Rep. Squires asked if this would be an erosion of Central Stores. Mr. Eicholtz said he did not believe so. He said they bulk purchase supplies there and feels their prices are very competitive with the regional market. Generally he did not think the agencies would be able to beat their price, unless like the University of Montana they also have a store's program which would have an additional markup.

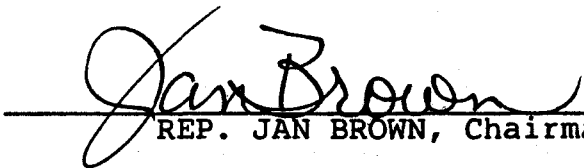
REP. CAMPBELL asked if the bill is not an erosion of the bid process if someone can make a proposal after the bid has been open. Mr. Eicholtz said that is why the bill has been amended. Prices cannot be given after the bid has been open. The catalog price must be received at or before the

time the bids are open.

Recommendation and Vote: The motion that HB 278 DO PASS AS
AMENDED CARRIED, 17 - 1, with Rep. Phillips voting no.

ADJOURNMENT

Adjournment At: 10:48 a.m.



REP. JAN BROWN, Chairman

JB/jb

2914.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date February 3, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

STANDING COMMITTEE REPORT

February 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that House Bill 298 (first reading copy -- white) do not pass

Signed: _____

Jan Brown, Chairman

1:44 pm
2/3/89
j2

STANDING COMMITTEE REPORT

February 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 302 (first reading copy -- white) do pass as amended.

Signed: _____

Jan Brown

Jan Brown, Chairman

And, that such amendments read:

1. Page 2, line 3.
Strike: "The maximum"
Insert: "A"
Strike: "payable"
Insert: "increased"

STANDING COMMITTEE REPORT

February 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that House Bill 314 (first reading copy -- white) do pass.

Signed: _____

Jan Brown
Jan Brown, Chairman

STANDING COMMITTEE REPORT

February 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that House Bill 412 (first reading copy -- white) do pass.

Signed: _____

Jan Brown
Jan Brown, Chairman

STANDING COMMITTEE REPORT

February 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that House Bill 387 (first reading copy -- white) do pass .

Signed: _____


Jan Brown, Chairman

10:44 AM
2/10/89
JW

STANDING COMMITTEE REPORT

February 4, 1989

Page 1 of 3

Mr. Speaker: We, the committee on State Administration report that House Bill 278 (first reading copy -- white) do pass as amended.

Signed: Jan Brown

Jan Brown, Chairman

And, that such amendments read:

1. Title, lines 8 and 9.

Strike: "UNDER" on line 8 through "PURCHASE" on line 9

Insert: "THROUGH THE DEPARTMENT OF ADMINISTRATION'S CENTRAL STORES"

2. Title, line 9.

Following: "OR"

Insert: "UNDER A"

3. Page 2, line 6.

Following: "a"

Insert: "is received at or before the time the bids or proposals are opened and"

4. Page 2, line 7.

Strike: "any"

Insert: "the"

5. Page 2, line 9.

Following: "The"

Insert: "of the lowest responsible and responsive bidder or offeror"

Following: "or"

Insert: "improves upon the conditions for the best proposal received using the same factors and weights included in the"

Strike: "received"

6. Page 2, line 17.

Strike: "department"

7. Page 2, line 18.

10:14 AM
2/04/89
ja

February 4, 1989
Page 2 of 3

Strike: "under" through "bulk purchase"
Insert: "department's central stores"
Following: "program"
Insert: "through bulk purchase"

8. Page 2, line 19.
Following: "a"
Insert: "procured under a"

9. Page 2, lines 22 and 23.
Strike: ", " on line 22 through "of" on line 23

10. Page 2, line 24.
Strike: "purchase,"

11. Page 2, line 24 through page 3, line 1.
Strike: "for" on line 24 through "contract" page 3, line 1
Insert: "offered by the central stores program or under the term contract and conforms in all material respects to the terms, conditions, and quality offered by the central stores program or under the term contract"

12. Page 3, line 17.
Following: "price"
Insert: "is received at or before the time the bids or proposals are opened and"
Strike: "any"
Insert: "the"
Following: "bid"
Insert: "of the lowest responsible and responsive bidder or offeror"

13. Page 3, line 18.
Following: the first "or" line 18
Insert: "improves upon the conditions for the best proposal received using the same factors and weights included in the proposal"
Strike: "received"

14. Page 3, lines 22 and 23.
Strike: "department" on line 22 through "bulk purchase" on line 23
Insert: "department's central stores"

15. Page 3, line 23.
Following: "program"
Insert: "through bulk purchase"
Following: "or"
Insert: "procured under"

10:44 am
2/04/89
ja

February 4, 1989
Page 3 of 3

16. Page 4, lines 1 and 2.

Strike: "1" on line 1 through "1" on line 2

17. Page 4, lines 2 and 3.

Strike: "for" on line 2 through "contract" on line 3

Insert: "offered by the central stores program or under the term contract and conforms in all material respects to the terms, conditions, and quality offered by the central stores program or under the term contract"

AT

WARDEN RETIREMENT ADJUSTMENT

EXHIBIT 1
DATE 2-3-89
HB 302

The warden retirement system was enacted by the 1963 legislature effective July 1, 1963 to provide a retirement system for this hazardous duty occupation group.

It has the following members as of July 15, 1988: employed - 86; retired - 38; disabled - 8; survivors - 4.

This bill will affect 20 retired members, 5 disabled members and 2 survivors.

Since 1963 the CPI has increased 285%. During this same period, retired wardens have been given one 2½% cost of living increase in 1979.

As a result of this disparity, the dollar value of the older wardens retirement income has dropped drastically. Most of the wardens affected by this bill retired before 1978 and are between 65 and 84 years old.

This bill will provide a one time adjustment to this group of wardens. In general, it provides 2% per year of a current probationary warden salary for each year of service up to a maximum of 30 years of service.

The maximum total monthly allowance for a retired warden with 30 or more years of service would be \$776.60 per month. A warden with 25 years of service would have a maximum of \$647.17 per month. For comparison, a warden retiring today with the 25 years of service will receive \$1,143.22 per month.

At the present time a warden who retired with 25 years 4 months service in 1966 is now receiving \$329.47 per month which is less than 1/3 the amount a warden with the same years of service would receive today.

The provisions of this act will be funded by continuing section 19-8-504. This section provides that fine monies of fish and game violations will be paid into this system to retire the unfunded liability.

At the present time, the unfunded liability will be paid in 11.27 years. The lifetime cost of this act will be \$581,411 and will require 3½ more years of fine money into this system.

With the passage of this bill the total unfunded liability will be paid in 14.7 years.

According to actuarial evaluation this is a very sound financial proposal and will not diminish the very favorable condition of the warden retirement system.

EXHIBIT 2

DATE 2-3-89

HB 302

Amendments to House Bill No. 302
First Reading Copy

Requested by Representative Grady
For the House Committee on State Administration

Prepared by Lois Menzies
February 3, 1989

1. Page 2, line 5.

Following: "1989"

Insert: "; however, if a member or beneficiary was receiving a monthly retirement allowance before July 1, 1989, that exceeded 60% of a probationary state game warden's base salary on July 1, 1989, the allowance may not be reduced as a result of implementing this subsection (2)(b)."

MONTANA

Helena, Montana 59604

1426 Cedar Street

P.O. Box 5600

DATE 2-3-89
Telephone (406) 442-4600

Toll Free 1-800-221-9468

PUBLIC

EMPLOYEES

ASSOCIATION

January 23, 1989

Representative Ed Grady
Capitol Station
Helena, MT 59620

Dear Ed:

Orville Lewis indicated that you needed some information concerning unfunded liabilities of other systems. This should help you for passage of HB 302.

According to actuarial consultants Hendrickson, Miller and Associates, Inc. as of June 30, 1988 the years necessary to amortize the unfunded accrued liability under the entry age normal method is as follows:

Game Wardens	- 11.27 years
P.E.R.S	- 24.96 years
Municipal Police Officers	- 29.51 years
Highway Patrol	- 36.65 years
Sheriffs	- Fully Amortized
Judges	- 35.01 years
Firefighters	- 34.25 years

If I can be of any other help, let me know.

Thanks,


Thomas E. Schneider
Executive Director

TES/LAR

Eastern Region
P.O. Box 20404
Billings, MT 59104
(406) 256-5915

Western Region
P.O. Box 4874
Missoula, MT 59806
(406) 251-2304



EXHIBIT 4

DATE 2-3-89

HB 317

February 3, 1989

TESTIMONY
TEACHERS' RETIREMENT BOARD
HB 317

TITLE: "An act limiting the compensation that may be used in the calculation of average final compensation when a member of the Teachers' Retirement System receives a substantial increase in compensation that may be included in the calculation of average final compensation; defining any amount in excess of the limit as termination pay; amending Section 19-4-101 (5); and providing an immediate effective date."

HB 317 addresses the unfunded liability the Teachers' Retirement System incurs when a member retires immediately after receiving a large increase in salary. The problem is caused when the retiree and employer have not contributed into the system long enough to fund the benefits his new salary entitles him to. The solution proposed by HB 317 would require the employer and employee to contribute extra money in order to fund the new liability. This plan does not require the retiree to take any cut in benefit. Any pay raises obtained through collective bargaining agreements would be exempt from this law.

Benefits under the TRS are based on a formula using years of service ÷ 60 X average final compensation. The only variables in the formula are years of service and average final compensation. Past legislation has required funding for the accumulation of additional service credit. Now the Board is faced with the task of trying to control the funding required to fully fund benefits when a member receives additional compensation just prior to retirement. Since the average is based only the member's highest 3 consecutive years earnings, the increases we have experienced are far too great to be subdued when averaged over only 3 years.

The Teachers' Retirement System has seen a number of cases where members have received large increases in their salary just prior to retirement. These included cases where members have received increases retroactive to the beginning of the school year after they have received estimates from the Teachers' Retirement System. The purpose of this legislation is to provide full funding for the salaries used in the calculation of average final compensation. This bill will limit the 3 years earnings used in the calculation of average final compensation so that each may not exceed the preceding year reported by more than 10%. An exception would be allowed for increases in excess of 10% if included in a collective bargaining agreement. Any amounts in excess of the limit established will be considered termination pay. Under the provisions of the Teachers' Retirement Act members may elect to use termination pay in the calculation of benefits under 3 different options. If they elect to use termination pay in the calculation of benefits, additional contributions will be required from the member and the employer to reimburse the System for the additional benefits received. The 3 options are:

Option I - add the full amount of the termination pay to the last years salary. This will result in an additional contribution due, based on the members age at retirement and years of creditable service; or

Option II - the total termination pay is divided by the years of service and the fraction than added to each of the 3 years used in the calculation of average final compensation. The member and employer are required to contribute the normal contribution rates on termination pay under Option II. They currently are 7.044% for the member and 7.428% for the employer

Option III - Exclude the termination pay from the average final compensation. No contribution is required by either the employee or the employer.

For example: Under option I a retiree, age 58, would be required to contribute 2.79% for each year of service. If the retiree had 25 years of service, they would be required to contribute 69.75% of the termination pay. The employer is required to contribute 2.95% for each year of service, or 73.75%. If the retiree had termination pay equal to \$10,000 , the TRS would receive a total contribution of \$14,350 to fund the benefit enhancement. The retiree in turn would receive an additional \$115.74 per month for life.

This legislation will fund the liability created when a member retires immediately after receiving a large increase without reducing the total benefit the member is eligible to receive. Contributions required to fund the benefits will be paid by the employer and member who receives the additional benefit. If this act is not adopted, the Teachers' Retirement System will continue to pay unfunded benefits to members who are receiving large increases in anticipation of retirement with the majority of the members funding the benefits they receive. Continuing this practice may also result in the need to seek future legislation to increase the employer and/or employee contribution rates.

5
DATE 2-03-89
HE 317

MONTANA UNIVERSITY SYSTEM
PROPOSED AMENDMENTS TO HOUSE BILL 317

Page 2, Line 18:

Strike "exceed the greater of:"
and substitute, "include salary
adjustments in excess of 10% of
the previous years salary except:"

Page 2, Lines 19-23:

Strike in its entirety and
substitute:

"(i) when the salary adjustment is
based on a promotion or change in
duties and responsibilities; or
(ii) the salary adjustment is
consistent with increases granted
by the employer to other similarly
situated employees."

February 3, 1989

HB314

143

Teachers' Retirement Board Testimony

TITLE: "an act generally revising the laws relating to the teachers' retirement system; Clarifying the definition of "earned compensation" to include amounts paid under cafeteria plans; allowing substitute teachers to qualify substitute service; clarifying and defining the first full year's teaching salary used in the calculation of creditable service; clarifying the calculation of survivor benefits; increasing the minor child benefit from \$100 to \$200 a month; amending sections 19-4-302, 19-4-401, 19-4-1001, and 19-4-1002 MCA; and providing an applicability date and an effective date"

SECTION 1 "Cafeteria Plan"

The purpose of this amendment is to clarify the definition of earned compensation under the Teachers' Retirement System. Earned compensation has always been interpreted to mean the members gross earnings including amounts paid under a tax sheltered annuity or a deferred compensation program and the value of any housing provide by the employer. However, with the increased popularity of "cafeteria plans", it has been challenged that this definition might not include earnings deferred from income taxes under these plans. Such an interpretation of the statutes would create a severe underfunding of the Teachers' Retirement System and reduced benefits at retirement.

A cafeteria plan (or "flexible benefit plan") is a plan in which a participant may choose among two or more benefits. A participants contributions for benefits under the plan are excluded from gross income for federal and state income tax purposes and from social security. Cafeteria plans are established to avoid income taxes and therefore increase the participants take home pay, not to reduce the gross income reported to the TRS and ultimately the member's benefit.

SECTION 2 "Substitute Teaching"

This amendment will provide substitute teachers the option of purchasing service that may not have been covered under TRS. Prior to July 1, 1987, substitute teachers were excluded from membership until their 31st day in each school year and then employee and employer contributions were due retroactive to their first day of employment. In 1987 legislation was adopted giving substitute teachers the right to elect membership in the Teachers' Retirement System on their first day of employment in each school year with membership still mandatory on their 31st day of employment. However, since retroactive contributions are no longer required, substitute teachers who do not elect membership on their first day of employment and subsequently are required to become members on their 31st day, do not have the

opportunity to qualify the first 30 days of employment should 2d13
they wish to do so.

This amendment provides that substitute teachers may qualify this service, provided they contribute both the employee and employer contributions that would have been made had they been a member, plus the interest these contributions would have accrued had they been on deposit with the Teachers' Retirement System.

SECTION 3 "First full years salary"

This amendment will clarify the term "first full year's salary" as used in the calculation to purchase service when a member does not have a full years salary. Members of the Teachers' Retirement System may apply to purchase creditable service for military service, out-of-state teaching service, service while on leave, private teaching service, Montana Cooperative Extension service, and Workers Compensation leave. Members are eligible to qualify service once they have completed 5 full years in the Teachers' Retirement System following the type of service they wish to purchase. The cost to purchase each type of service is based on the members "first full years teaching salary" earned in Montana following the type of service they wish to purchase, multiplied by the combined employee/employer contribution rate in effect when eligible. Because the cost is based on the member's first full years teaching salary, part-time members who do not have a full year's salary may never be eligible to qualify additional service.

The purpose of the amendment is to define the first full year's teaching salary used in the calculation to qualify creditable service, when a member has only part-time service, as the salary he would have earned had his part-time service been full time.

SECTION 4 "Early Retirement/Survivor Benefit"

This amendment will strike the reference to early retirement as it would apply in determining survivor benefits found under sections 19-4-1001 & 19-4-1002 of the teachers' retirement act. Survivor benefits under the Teachers' Retirement System are based on the members average final compensation and years of service as of the date of death, assuming the member had attained the normal retirement age of 60. There has been no actuarial adjustment because of age or service for early retirement. However, the statutory reference in the Teachers' Retirement Act to Section 19-4-802 MCA, if applied could require a reduction in the monthly benefits, payable to the beneficiary, were the member not otherwise eligible for full retirement benefits.

The Teachers' Retirement Board never intended this adjustment nor has the System's actuary anticipated any adjustment in the benefit payable when valuing the retirement system. In 1973 legislation was adopted to allow members to retire as early as age 55, with an actuarially reduced benefit. This enhancement in benefits was not intended to impact the calculation of survivor benefits but was codified into the survivorship benefits in

error.

If the early retirement reduction were applied in the calculation of survivor benefits at the time of the member's death, the monthly benefit would be reduced 1/2 of 1% for the first 60 months the member is short of age 60 or having accrued 25 years of creditable service and 3/10ths of 1% for each additional month in excess of 60. The beneficiary of a younger member who passes away with very few years of creditable service would receive almost nothing in a monthly benefit.

For example: A beneficiary of a deceased member, age 40, with 5 years of membership service, would receive only 16% of the normal monthly benefit payable to the member at age 60. The benefits would be reduced 84% on account of an early retirement. If the members average final compensation is \$30,000.00, the annual benefit under the current practice would be \$2,500.00. With an actuarial reduction for early retirement, the benefits would be \$400.00 per year.

SECTION 5 "Minor Child Benefit"

This amendment will increase the minor child benefit from \$100 per month to \$ 200 per month. Legislation providing benefits to minor children was first enacted in 1971. The first recipients were eligible to receive \$50.00 per month, which was increased to \$100.00 in 1975. Currently only 56 minor children are receiving this benefit.

The System's actuary has stated that due to the extremely small number of children receiving this benefit, the additional cost, as a percentage of salary, is very slight and did not recommend the Teachers' Retirement Board seek additional funding.

This enhancement will provide greater benefits at a time when the need is greatest and when the families earning potential has been significantly reduced through the death of a spouse.

CAUTION: THIS IS A GRAY BILL
FOR DISCUSSION PURPOSES ONLY

HOUSE BILL NO. 278

INTRODUCED BY REAM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE COMPETITIVE BIDDING REQUIREMENTS TO PERMIT STATE AGENCIES TO PURCHASE SUPPLIES USING ADVERTISED OR CATALOG PRICES UNDER CERTAIN CIRCUMSTANCES; PROVIDING SPECIAL PURCHASING PROCEDURES FOR OFFICE SUPPLIES AVAILABLE UNDER A BULK PURCHASE THROUGH THE DEPARTMENT OF ADMINISTRATION'S CENTRAL STORES PROGRAM OR UNDER A TERM CONTRACT; REMOVING THE TERMINATION DATE FOR CERTAIN PROCUREMENT-RELATED DEFINITIONS; AMENDING SECTION 18-4-302, MCA, AND SECTION 6, CHAPTER 303, LAWS OF 1987; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-4-302, MCA, is amended to read:

"18-4-302. (Temporary) Methods of source selection. (1)

Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by competitive sealed bidding, pursuant to 18-4-303, except as provided in 18-4-133, 18-4-304 through 18-4-306, chapters 5 and 8 of this title, and subsections (2) and (3). Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) At the time the department or a purchasing agency mails ~~an invitation for opens bids or a request for proposals for office supplies, if a Montana supplier's current publicly advertised or established catalog price available to the public may be registered as a~~ IS RECEIVED AT OR BEFORE THE TIME THE BIDS OR PROPOSALS ARE OPENED AND is less than any THE bid if it meets the specifications, terms, and delivery requirements of the invitation for bid or request for proposals. The OF THE LOWEST

RESPONSIBLE AND RESPONSIVE BIDDER OR OFFEROR or IMPROVES UPON THE CONDITIONS FOR THE BEST PROPOSAL USING THE SAME FACTORS AND WEIGHTS INCLUDED IN THE proposal received, the department shall
~~certify the exact time that the advertised or catalog price was received before the invitation for bids or request for proposals was mailed. An advertised or established catalog price registered as a bid must be available for inspection to all prospective bidders or purchasing agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.~~

(3) Any An office supply procured by the department through ~~under a bulk purchase~~ THE DEPARTMENT'S CENTRAL STORES program ~~THROUGH BULK PURCHASE or contracted for by means of a~~ PROCURED UNDER A term contract may be purchased by a purchasing agency, without meeting the requirements of 18-4-303 through 18-4-306, from a ~~Montana~~ supplier whose publicly advertised or established catalog price available to the public, at the time of the mailing of the invitation for bids or request for proposals ~~purchase~~, is less than the price ~~for which the office supply is available from the department or under the provisions of the term contract~~ OFFERED BY THE CENTRAL STORES PROGRAM OR UNDER THE TERM CONTRACT AND CONFORMS IN ALL MATERIAL RESPECTS TO THE TERMS, CONDITIONS, AND QUALITY OFFERED BY THE CENTRAL STORES PROGRAM OR UNDER THE TERM CONTRACT. All A state office supply term ~~contracts~~ contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.

18-4-302. (Effective July 1, 1989) Methods of source selection. (1) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by competitive sealed bidding, pursuant to 18-4-303, except as provided in 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of this title, and subsections (2) and (3). Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) At the time the department or a purchasing agency opens bids or proposals, if a supplier's current publicly advertised or established catalog price IS RECEIVED AT OR BEFORE THE TIME THE BIDS OR PROPOSALS ARE OPENED AND is less than any THE bid OF THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER OR OFFEROR or IMPROVES UPON THE CONDITIONS FOR THE BEST PROPOSAL RECEIVED USING THE SAME FACTORS AND WEIGHTS INCLUDED IN THE proposal received, the department or purchasing agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

(3) An office supply procured by the ~~department under a bulk-purchase~~ DEPARTMENT'S CENTRAL STORES program THROUGH BULK PURCHASE or PROCURED UNDER a term contract may be purchased by a purchasing agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised or established catalog price, ~~at the time of the purchase,~~ is less than the price ~~for which the office supply is available from the department or under the term contract~~ OFFERED BY THE CENTRAL STORES PROGRAM OR UNDER THE TERM CONTRACT AND CONFORMS IN ALL MATERIAL RESPECTS TO THE TERMS, CONDITIONS, AND QUALITY OFFERED BY THE CENTRAL STORES PROGRAM OR UNDER THE TERM CONTRACT. A state office supply term contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection."

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 3. Section 6, Chapter 303, Laws of 1987, is amended to read:

"Section 6. Termination date. ~~This act terminates~~ [Sections 2 through 6] terminate June 30, 1989."

NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 1989.

NEW SECTION. Section 5. Applicability. This act applies to a term contract entered into after [the effective date of this act].

-End-

STATE ADMINISTRATION COMMITTEE

DATE February 3, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 298DATE February 3, 1989SPONSOR REP. MCCORMICK

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Paul Russell Brown	MT Democratic Party		✓
Mike Craig	ASUM		✓
C.B. Pearson	Education Cause		✓
Cort Harrington	Mont and of Clerk & Recorder		✓
Glen Campanelli			

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 302

DATE February 3, 1989

SPONSOR REP. GRADY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE ADMINISTRATION COMMITTEE

DATE February 3, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE ADMINISTRATION COMMITTEE

DATE February 3, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.