MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on January 25, 1989, at 10:00 a.m. in Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure

Announcements/Discussion: Chairman Farrell announced he will present SB194, and turned the committee over to Vice Chairman Hofman.

HEARING ON SB 194

Presentation and Opening Statement by Sponsor:

Senator Bill Farrell reported that SB194 is a bill to change the Sheriff's Retirement System to 24 years before 1989, and those retiring after 1989 to 24 years of service and 50 years of age. Senator Farrell then turned the podium over to Tom Harrison.

List of Testifying Proponents and What Group they Represent:

Mr. Tom Harrison, Montana Sheriffs and Peace Officers Association

Chuck O'Reilly, Montana Sheriffs and Peace Officers Association

Testimony:

Mr. Harrison stated that SB194 makes a minor change in benefits for members of the Sheriffs and Peace Officers Retirement System, which is a reduction of 1 year, from 25 to 24. He added that this retirement system has been, and continues to be fully funded and fiscally sound. Mr. Harrison stated the 1 year can be absorbed in the present funding that goes into this retirement system, and the fiscal note will indicate it has the money to pay for it.

Mr. Harrison noted that Linda King from the PERS is in attendance, and is available to answer any questions the committee might have. He added that Ms. King has indicated to him this change has about a 1.23% cost factor and, after taking that into consideration, the retirement fund will still be fully funded, fiscally sound, and have about .8% surplus remaining. He noted they do propose 2 amendments. He pointed out, on page 2, line 9, the number 20 will be changed to 24 and, on line 10, the number 65 will be changed to 50. He explained that those are the numbers which coincide with the numbers found in Section 1 on page 1, lines 18 and 19, and provide the mathematical basis for an early retirement and how it is computed back. He noted they necessarily should be the same numbers as if the person was retiring normally, which is the basis for back figuring, or deducting from that, an actuarial equivalent for an early retirement, which is available in this system, as it is in virtually most retirement systems in Montana. Mr. Harrison indicated they feel that, in addition to being a benefit that is affordable and that the fund can pay for, it brings it in line with the 4 year terms of office, or multiples of 4, for elected officials. He added that they hope the committee will find that it is acceptable even in this time of tight economy, and this is a benefit that, in fact, these people have paid for and rests in their system right now.

Mr. Harrison reported the fiscal note is prepared, and should be forthcoming in a day or so.

Testimony:

Mr. O'Reilly stated he supports the bill. He cited a situation in Lewis & Clark County with a former Sheriff, Dave Middlemas, who was unable to get his full retirement because of the 1 year difference. Mr. O'Reilly pointed out Mr. Middlemas was elected for 6 terms, was defeated for his 7th, and lost that 1 year. Mr. O'Reilly noted that is a long time to work, and still lose a year of retirement. He noted this is basically the only real benefit elected Sheriffs get as they do not receive sick leave or vacation leave, and Mr. O'Reilly asked for the committee's support.

Questions From Committee Members:

- Q. Senator Bengtson asked Ms. King how many sheriffs are eligible, or near eligible, for this.
- A. Ms. King referred to the fiscal note, which she indicated the committee will receive on this bill, and responded that there are an additional 17 members who could retire with increased benefits, either in terms of being able to retire a year earlier than currently, or have less of an actuarial reduction in their early retirement benefit.

Ms. King added that the fiscal note indicates the cost of this proposal is 1.92%, as originally drafted. She indicated that, with the amendments which have been proposed, the cost will be 1.23%, and the fiscal note does not indicate that because the fiscal note was written for the bill as drafted. She noted the changes on page 2 will reduce the cost by about .07%, and allow this system to continue to be funded fully.

- Q. Senator Bengtson further asked if this just covers the elected sheriffs, or does it cover anyone else.
- A. Ms. King responded it covers elected sheriffs, their deputies, and the people on their staff.
- Q. Senator Bengtson then asked how many people are in the system in the state.
- A. Ms. King responded that, as of June 30, 1988, there were 509 active members in the system.
- Q. Senator Bengtson asked if they had to be members of the Association, or if they are automatically members.
- A. Ms. King indicated she could not answer if everyone that is in the retirement program are members of the Association, but all the employees of the department that are eligible to be covered, are covered. She added that Deer Lodge and Powell counties have no members of the Sheriffs Retirement System, and Silver Bow only has their elected sheriff, because the rest of the people belong to the police retirement system.

- Q. Senator Bengtson asked if the police have this same retirement system.
- Ms. King responded no, their system is different. After Α. asking Senator Bengtson if she would like an explanation of the differences, Ms. King explained the major difference is the cost. She reported the total Sheriff's Retirement System is a little over 14% of the covered members' salaries, and the police retirement system is over 40% of the covered members' salaries. She added that the police allow full retirement with 20 years of service and having reached age 50, at which time they retire on half pay. In addition, they receive additional per year of service, up to a maximum of 60% of salary. Ms. King indicated that because they also have statutory beneficiaries, meaning the wife and dependent children of the police officer have a statutory right to the exact same benefits as the police officer, it is a much greater benefit level, but it is also much more expensive.
- Q. Senator Bengtson then asked if there is a transferability, or reciprocity, from the sheriffs service to the police, and from the police to the sheriffs.
- A. Ms. King responded yes. If someone leaves the sheriffs retirement system and becomes a member of the police retirement system because they changed jobs, they may take a refund of their sheriffs, and apply that service into the police retirement system. She indicated that, because the cost is greater, they will probably have some out-of-pocket expenses to make up the service. However, if they go from the police to the sheriffs, and take their refund from police, the amount to buy the same service in the sheriffs is less, and there will be money left over.
- Q. Senator Bengtson asked if that applies across county lines, or if it must be within the same county.
- A. Ms. King responded they can transfer across county lines.
- Q. Senator Harding indicated she agrees that the sheriffs need compensation for the type of work they do. She then referred to Sheriff O'Reilly's comment that they do not receive any vacation or sick leave benefits, and pointed out that neither do any other elected officials.

Vice Chairman Hofman announced the hearing on SB194 as closed.

OTHER BUSINESS

58165 Discussion:

Senator Harding offered a motion that SB165 do pass. She indicated she believes it is very important that people who are in charge have supportive help, pointing out that you see that in county government, and in all types of government. Senator Harding further indicated they need people who they feel are people working for them, in their corner.

Senator Rapp-Svrcek offered a motion to amend SB165. He indicated the amendment would be to strike the language on page 2, from line 3 through line 20, inclusive. He noted this is regarding tenure, which is offered as a protection for those presently on staff. Senator Rapp-Svrcek indicated he thinks, by removing this from the bill, it removes what is a cloud on the whole issue of whether or not people should be appointed down to this level. He pointed out it is something that is only going to be offered this one time, it is not something that other Governors would enjoy or would have to hassle with, and it seems to him that there is potential for considerable hassle if these people are protected in this Senator Rapp-Svrcek stated that removing this from manner. the bill clarifies the issue, and that is a good reason to support the amendment.

Senator Bengtson added that, if they are going to move these people, essentially give them a job somewhere else in the system, it seems that someone down further on the totem pole is going to get RIF'ed. She noted this will be adding people to state government, by guaranteeing these deputy directors a job, when they are trying to reduce state government. Senator Bengtson then asked what happens to people that are further on down, and stated it seems that language was put in to make it more palatable, but that it is not in concert with what they are trying to do with state government, which is to cut back.

Senator Hofman disagreed with that philosophy, and stated that this is in there to protect those people that have worked in the department all of their life. He indicated they have been there a long time, have worked up to this point, and it is for their protection that we have that. Senator Hofman noted that, 4 years from now, if this is passed, they are going to know that position will be up for grabs but, until that time, they deserve a little consideration. He indicated there probably will not be that many people replaced down to that level, it is at the Governor's discretion and, if he wants to, he can do that. Senator Hofman reiterated that he thinks those people need a little consideration that they won't get, if that amendment is passed.

Senator Vaughn indicated the concerns she has been hearing from some of the people is regarding the difficulty in finding people to fill these positions. Senator Vaughn agreed that the Governor needs to have people he can work with, but she agreed with Senator Hofman in that those people who have made a career of this and then, because the philosophy will be changed, and they have no protection whatsoever, they can just be let out. That is the concern Senator Vaughn indicated she is hearing from the people that have been contacting her.

Senator Harding indicated she is wondering what Senator Brown's opinion would be and stated that, before the committee takes a drastic measure, the committee should get an opinion on it. Senator Rasmussen stated he thinks Senator Brown would be opposed, indicating this is an integral part of his bill.

Chairman Farrell agreed, and stated that Senator Brown had that provision put in this bill before he would carry it. He noted that, if that provision is struck, this bill will be similar to the one that Governor Schwinden tried in 1981, and Senator Brown voted against that, at that time, because there was no protection. Senator Vaughn stated she talked with him about that, too, and that is the one strong point he had for it.

Senator Anderson agreed, indicated he did not feel it would affect the departments that much because there are people who are retiring, continually, and stated he does not see the impact that Senator Bengtson referred to. Senator Anderson indicated he thinks it is important the people that have been there for years be protected.

Senator Bengtson agreed, but stated that if the person is not satisfactory as a bureau chief, n that capacity, certainly there is some question as to where he is going to be placed.

Senator Anderson indicated he has thought about this bill quite a bit, and that he visited with Ted Schwinden about a month before he went out of office. Senator Anderson indicated one of the things Mr. Schwinden said was one of the most difficult things he experienced as Governor was keeping the departments in tow and working with him. Senator Anderson stated, for that reason, he can see a lot of merit to this bill. He noted, on the other hand, we have to consider protecting the people that have worked there for years.

Senator Harding stated she does not believe the bureau chiefs would be removed because they were not competent. She indicated the reason they would be put in a different position would just be that they would not be in charge of the philosophical balance with the Governor, and Senator Harding stated she believes the Governor has a right to have those people there. She added that those people who have been in charge still have expertise, and she is sure they would reciprocate with their input, but just would not be in charge.

Senator Abrams indicated he did not believe he could support the amendment either. Not only does it take away their tenure but, if the bill passes, how many of these administrators will wait and see, or will find a more stable position.

Senator Rapp-Svrcek indicated the discussion has centered around protection, but the removal of this portion of the bill certainly would not preclude the retention of these people. It would, as Senator Harding said, allow Governor Stephens to remove those people who are not in line philosophically with him, and Senator Rapp-Svrcek stated he thinks that is the purpose of the bill. He indicated that, by adopting this amendment, these people are not being thrown out, but that Governor Stephens will have that option. Senator Rapp-Svrcek asked why tie his hands, when future governors are not going to have their hands tied in this manner. He suggested that if the committee agrees, philosophically, that governors should have this power, then it should be done now. Senator Rapp-Svrcek suggested Governor Stephens be given this option, and given the free hand that future governors will have under this law.

Chairman Farrell announced that the committee has before them a motion to amend SB165, striking portions from line 3 on page 2 to line 20 on page 2. There was no further discussion, and the motion failed.

Chairman Farrell then announced that the committee has before them a motion that SB165 do pass, and asked for further discussion.

Senator Bengtson indicated she is concerned about the issue of policy. She indicated it was brought up that the chief executive wants to implement his policy, wants his directors to fall in line with his policy, and they want this with the deputy directors, and on down. She stated she thinks it vests

SENATE COMMITTEE ON STATE ADMINISTRATION January 25, 1989 Page 8 of 11

too much power in the executive, and will allow for rampant swings in policy in the state. Senator Bengtson further stated she thinks it does not give the legislative branch its proper check on the executive, that the Legislature needs to be the policy-makers, and that the Legislature would be under a lot of pressure to fall into line. She pointed out that this campaign was a mandate for change, and indicated that is true, in some regards, but she thinks that can be effected without this kind of power being given to the executive. She further indicated change can come about through the Legislature, and those policies can be brought to bear through the She stated she feels it will break down the Legislature. morale in the agencies, they will sit on needles and pins, and it will become very political in most agencies because they are all sitting, wondering if they are going to have their jobs. Senator Bengtson further stated she does not think it is the right way to go, no matter who is governor. She stated that, as a Legislature, they are selling themselves short, adding that the part Senator Brown put in about protection is fine, and she supports that, but doesn't think the bill is any better with that in than it was when Governor Schwinden proposed it. She indicated it is a struggle for power, and she thinks the Legislature is relinquishing their right to that.

Senator Anderson asked Senator Bengtson if it isn't difficult for the Legislature to set up policy for every department, and doesn't she think they have to be given some flexibility in that regard. Senator Bengtson responded that she thinks those responsibilities are pretty much prescribed, and they are not political entities. She stated they are there to do the will of the Legislature; they set policy, not the agencies. Senator Anderson stated there is that protection, now. Senator Bengtson agreed there is a protection, but she thinks that, to go this far with an administration, no matter whether it is Democrat or Republican, or what personalities are involved, is not the proper thing to do.

Chairman Farrell stated he would like the committee to know, and indicated he has researched a list of decisions, that the Supreme Court does not restrict it to policy. He indicated they restrict it to policy and confidential positions, basically. That's the protection that the Supreme Court gives to public employees. Chairman Farrell stated he does not think all the administrators in this state are in policy and confidential positions, and that there are probably 20 people that may able to set policy and be in a confidential position where they discuss the Governor's plans, or the director's plans. Chairman Farrell then stated he sees no problem with

the director or a governor asking to have those people "in his pocket", because they may be discussing a whole range of ideas or plans, and they may not want those released to the news media until they make their final decision. He noted that is paramount to being able to look at all the different ideas that a governor or a director may want to do. Secondly, Chairman Farrell indicated, he remembers the struggle that the Schwinden administration went through. The bill was killed. It went down to the bureau chief level, and there was no protection in the bill, but Chairman Farrell stated he thinks there was over 700 people RIF'ed, and approximately 12 to 20 cases were brought back for wrongful discharge. Chairman Farrell stated that, if he was an administrator, he would be testifying in favor of this. He indicated that, when Governor Schwinden was there, approximately 600 to 700 people were sitting out there wondering whether they were going to have a job through re-organization. That is kind of scary to those people. Chairman Farrell indicated he is not sure this is a good bill for a governor to have because it is guaranteeing those people jobs, although the Governor should have the opportunity to appoint his assistant directors and his administrators that set policy. Chairman Farrell indicated the Governor wants this, Senator Brown has looked this bill over, and made it palatable to him, and Chairman Farrell indicated it is palatable to him, now. He stated he thinks the problem will be, if as Senator Bengtson suggests we have mass removal of these people, that they have a budget to live within. If you start putting people in menial jobs somewhere, those directors are going to have to justify that before the Legislature. Chairman Farrell stated he supports the bill, in this form, and would hope that the committee could get it out on the floor and let the Senate vote on it.

Senator Rasmussen asked for clarification on the number of departments and positions being affected. There was general discussion, and it was noted there are 14 departments, 80 division administrators and 12 deputy directors.

Senator Hofman stated that the Governor does not necessarily want to replace a lot of people. He indicated he understands that he would like to replace the ones that he has a problem with, and if he wants to replace them, he can, if this bill goes through. Senator Hofman stated he has gone on record that he is not real happy with this bill, but he is going to vote to get it out of committee. He added he is not saying he will vote against it on the floor, but he does not really like the bill.

Recommendation and Vote:

Motion passed by the committee that SB165 do pass, with Senator Bengtson, Senator Abrams and Senator Rapp-Svrcek opposed.

\$B/68 Discussion:

Chairman Farrell indicated the fiscal note on SB188 has been received, and Senator Rapp-Svrcek offered a motion that SB188 do pass. He indicated there is no fiscal impact, it will allow the Secretary of State's office to be brought into the modern age, it will eventually allow corporations to save money in the preparation of annual reports, and it will eventually reduce the FTEs in the Secretary of State's office.

Senator Harding stated she will not oppose this bill, going on line 9, page 3, which states the annual report must be on forms or in a computerized format prescribed by the Secretary of State. She noted they testified that this is not to prevent the small corporations, who might never be computerized, from going to this, and she will vote in favor.

Recommendation and Vote:

Motion passed by the committee that SB188 do pass.

SB 95 Discussion:

Senator Rasmussen offered a motion that SB95 do pass. Senator Bengtson asked why not raise the rate to \$30. Chairman Farrell reported he talked extensively with some people in Missoula, and their lobbyists, about the proposed \$35 rate. He reported that 3 different motel chains had sent the Legislators letters offering them room rates as low as \$24, or \$23.99, during the session. Chairman Farrell stated he understands they want more money, and the problem they have is State agencies asking for State room rates for people that are not State employees. He reported there is a \$1.5 million fiscal note on the bill, which he thinks is too much to ask the agencies to absorb in their budgets over the next 2 years, and suggested that what will happen is this bill will go through the Senate and the House, it will be referred for appropriations in the House, and they will be asked to appropriate the money this session for this increase. Chairman Farrell stated that, after talking with some of those people, the Legislators in Missoula asked them if they could agree with a \$30 rate and, at that time, they said they could live with \$30. Chairman Farrell then offered a motion to SENATE COMMITTEE ON STATE ADMINISTRATION January 25, 1989 Page 11 of 11

amend the bill, striking the figure \$35, on line 24, replacing it with \$30.

Senator Bengtson stated she thinks it is a good idea, and reported that they agreed in Billings, too. She noted the reason they are asking for the \$35 is because of the time it takes to get any increase, and they are asking for more than they really need at this time. Senator Anderson pointed out that one of the proponents gave a figure of \$28 as an actual cost, and there was discussion by the committee on this. Senator Rasmussen indicated he would vote against the amendment.

Recommendation and Vote:

Motion passed by the committee to amend SB95, with Senator Rasmussen opposed.

Motion passed by the committee that SB95, as amended, do pass.

ADJOURNMENT

Adjournment At: 11:00 a.m.

WILLIAM E. FARRELL, Chairman

WEF/mhu SB194.125

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: January 25, 1989 ____

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	~		· .
JOHN ANDERSON, JR.			
ESTHER BENGTSON			
WILLIAM E. FARRELL			
ETHEL HARDING	~		
SAM HOFMAN			
PAUL RAPP-SVRCEK	\checkmark		
TOM RASMUSSEN			
ELEANOR VAUGHN			

SENATE STANDING COMMITTEE REPORT

January 25, 1989

MR. PRESIDENT:

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We, your committee on State Administration, having had under consideration SB 165 (first reading copy -- white), respectfully report that SB 165 do pass.

DO PASS

Signed: William E. Farrell, Chairman

SCRSB165.125

SENATE STANDING COMMITTEE REPORT

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January 25, 1989

MR. PRESIDENT:

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We, your committee on State Administration, having had under consideration SB 188 (first reading copy -- white), respectfully report that SB 188 do pass.

DO PASS

Signed: William E. Farrell, Chairman

1. C. 189 1/26/89 11:40 11:40

SCRSB188. 125

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 95 (first reading copy -- white), respectfully report that SB 95 be amended and as so amended do pass:

1. Page 1, line 24. Following: "24" Strike: "<u>\$35</u>" Insert: "\$30"

AND AS AMENDED DO PASS

Signed William E. Farrell, Chairman

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SENATE STATE ADMIN.			
EXHIBIT NO			
DATE 1/25/89	STATE	ADMINISTRATION	COMMITTEE
BILL NO. 58194			
WITNESS STATEMENT			

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

SENATE STATE ADMIN.			
exhibit no2			
DATE 1/25/89	STATE	ADMINISTRATION	COMMITTEE
BILL NO. SB194			4
WITNESS STATEMENT			

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:		DATE:
BAR	RY MICHELOTTI	1.25-89
Address:	604 GRIZZLY Dr.	
	GREAT FALLS, MT 594	о V
Phone:	152-4378	
Representin	ma Sheriff' and Perce off.	cera Assoc
Appearing o	on which proposal? SBI9(
Do you:	SUPPORT? AMEND?	OPPOSE?
Comments:		
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SENATE STATE ADMIN. EXHIBIT NO. 3 DATE 1/23/89 BILL NO. 56194 WITNESS STATEMENT

STATE ADMINISTRATION COMMITTEE

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: DATE:
TONY HARBAUTH 1-25-89
Address: 1010 MAin/
Miles City, MT
Phone: <u>232-2237</u>
Mont. Theiffs & Peace Officery
Appearing on which proposal?
<u> SB 194</u>
Do you: SUPPORT? AMEND? OPPOSE?
Comments:

SENATE STATE ADMIN			8
EXHIBIT NO. 4			
DATE 1/25/89	STATE	ADMINISTRATION	COMMITTEE
BILL NO SB194			
WITNESS STATEMENT			

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To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:		DATE:
	IM BURNES	1/25/59
Address:	325 JND AUE.	NO.
	Cost. FALLS, MT	
Phone:	761-6842	
Representir	ng whom?	
	M& SHIERIFF'S ASS	<u>}</u>
Appearing	on which proposal?	
<u> </u>	513194	
Do you: Comments:	SUPPORT? X AMEND?	OPPOSE?
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SENATE STATE ADMIN.			
EXHIBIT NO. 5			
DATE 1/25/89	STATE	ADMINISTRATION	COMMITTEE
BILL NO. 58194 WITNESS STATEMENT	•		

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:			DATE:	
Tim	Solomou		1-25-8	9
Address:	Box (69			
	Flavre	INT		
Phone:	265-792	8		
Representin				
INT	Sheriffs	and M	SPOA	
Appearing	on which proposal?			
	5B 18	4-	·	
Do you: Comments:	SUPPORT? _X	AMEND?	_ OPPOSE?	
<u></u>		<u></u>		

	SENATE STATE ADMIN.		
	EXHIBIT NO. 6		
	DATE 1/25/87 BILL NO. 5B194	STATE ADMINISTRATION CO	MMITTI
	WITNESS STATEM	ENT	
	a person testifying or a person testifying or a person testimony entered into t	on who would not like to stand up he record.	
NAME:		DATE:	
Cust 1	Petti	1/25/89	
<u> </u>	<u> </u>		
Address: 442.0) Bioderna Rd		
	1		
_/Y = (enp		
Phone: <u>492</u>	-0708		
Representing whom?			
MSPAR			
Appearing on which			
SB194		· · · · · · · · · · · · · · · · · · ·	
Do you: SUPPOR	AMEND?	OPPOSE?	
Comments:			
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SENATE STATE ADMIN.	
EXHIBIT NO. 7	•
DATE 1/25/89	
BILL NO. 5895	

Amendments to Senate Bill No. 95 First Reading Copy

For the Committee on Senate State Administration

Prepared by Eddye McClure January 25, 1989

l. Page 1, line 24.
Following: "\$24"
Strike: "\$35"
Insert: "\$30"

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VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE				
DATE:				
NAME	REPRESENTING	BILL #	Support	Oppose
LINDA KING	Public Employees' Returement DIV	5B 194		
Chuck O'Rully	Peace Mices	518194	X	
Barry Michelste	Baudfin	SBIJY	×	<u> </u>
Charle g Rhid	Pero Afia	58194		
Jim Bilique A	11 11	SR 194	X	
- Jony Dochaugh	<u>IN 10</u>	5B194	X	
This Bolemon		56194	X	
Cint Petty	MSPDA	56199	7	
Edward L Flins	MSCPFF	SB194	×	
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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY