

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on February 28, 1989, at 10:00 a.m., 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: Eddy McClure

HEARING ON HB 114

Presentation and Opening Statement by Sponsor:

Representative Floyd Gervais gave the committee some background on why this bill was introduced. He reported that, during the 47th Legislature, HB637 was passed, which is an act to provide veterans of the Vietnam conflict era service credit for the teachers retirement system comparable to those granted veterans of WWII and the Korean Conflict. He indicated the dates established in HB637 were between August 5, 1964 and May 7, 1975. Representative Gervais further reported that the American Legion, in their national convention in Houston, Texas on August 22, 1979, passed a resolution to petition Congress to amend the dates for those members of the armed forces who served honorably in Vietnam beginning December 22, 1961 and ending May 7, 1975, thus establishing the eligibility dates for membership in the American Legion during the Vietnam era.

Representative Gervais indicated there are representatives from the various veterans organizations, and Dave Senn from the Teachers Retirement System, in attendance to answer any

questions the committee members may have concerning this bill. He added that this bill just extends the dates about 31 months from the previous bill.

List of Testifying Proponents and What Group they Represent:

Dan Antonietti, Director, Veterans Employment and Training,
U. S. Department of Labor; National Economic and Employment
Committee of the American Legion
John Denherder, Legislative Director, Department of Montana
Disabled American Veterans
George Poston, United Veterans Committee of Montana
Phil Campell, Montana Education Association
David Senn, Executive Director, Teachers' Retirement System

Testimony:

Mr. Antonietti indicated this bill conforms with eligibility dates for American Legion membership. He stated that the first combat troops went into Vietnam on December 22, 1961, noting the State of New Jersey, in their retirement systems, recently passed legislation which established that date almost a year earlier, or after December 31, 1960. He indicated that military people, who served, will say that Vietnam was a 25 year war.

Mr. Antonietti reported that Montana lost 3 lives from this period of 1961 to 1964, which was less than 1% of the total fatalities that they encountered on the dates established by the Gulf of Tonkin Resolution. Mr. Antonietti passed around a copy of the proceedings on the resolution that Senator Gervais mentioned, and asked that they be entered into the permanent record. Said document is attached as Exhibit 2.

Testimony:

Mr. Denherder stated he thinks it was well-covered by Representative Gervais and Mr. Antonietti, adding that the Disabled American Veterans supports this.

Testimony:

Mr. Poston stated they would like to see the committee extend this date to allow Montana veterans to enjoy what the rest of the country is enjoying.

Testimony:

Mr. Campbell stated they would like to go on record in support of HB114. He reported they have a teacher member who has been calling and writing for a long time with this situation, because he happens to be caught in this era. Mr. Campbell noted this member wanted to limit it to only those who were actually in the rice paddies in Vietnam, but indicated they can not do that. Mr. Campbell stated there are some people that were in service, during this time period, and he thinks it is only appropriate the date be changed so they can enjoy the benefits that other veterans can enjoy.

Testimony:

Mr. Senn stated they support HB114. He indicated it provides for the cost to fund the additional service that members will receive, at no charge to them. He stated there is an increased cost to the teachers retirement system, and noted there were a number of discussions about how many people will be affected by the bill, but nobody knows. He indicated the costs, as provided in the legislation as drafted, will fund up to 125 people receiving an average of 2 years of credit service, adding they urge the committee's support of this bill.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked Mr. Senn if there are any requirements for these veterans to share part of the cost; if they have to buy in, or will the school districts have to pick up the cost.
- A. Mr. Senn responded there is no requirement that the veterans share in the cost, stating it is provided by an increase in the employer contribution, and that the cost will be shared by all school districts, and the university system, as well.
- Q. Senator Bengtson indicated she is concerned about the expansion, noting this is not the only time eligibility has been expanded, this session, of the teachers retirement system, and other retirement systems. She stated it seems to her there should be some sort of buy-in because, as a teacher, they contribute as well.

SENATE COMMITTEE ON STATE ADMINISTRATION

February 28, 1989

Page 4 of 16

- A. Mr. Senn responded that, under the Teachers Retirement Act, members may receive service credit for their military service during the Korean conflict, during WWII, and a 129 month period for the Vietnam conflict. He indicated this is extending those same rights to members who served in Vietnam, in the armed service or in active duty during the Vietnam conflict, back to December, 1961.
- Q. Senator Bengtson asked what other benefits veterans get besides teachers retirement, and if they are eligible for a pension or military retirement.
- A. Mr. Antonietti asked Senator Bengtson if she is referring to benefits funded by the state and the public system. Upon Senator Bengtson's reply that this is what she is referring to, Mr. Antonietti responded that they have very, very few benefits, indicating they recently lost benefits. He stated this was passed after WWII, and then amended several times by the legislative bodies to include the conflict dates of Korea, and then Vietnam. He indicated Vietnam was established in 1964 by the Gulf of Tonkin Resolution.
- Q. Senator Bengtson indicated she understands that, but asked what other benefits they may be eligible for.
- A. Mr. Antonietti responded that he knows of no other benefits they receive, other than what is in the present bill.
- Q. Chairman Farrell asked what the present unfunded liability is; how many years.
- A. Mr. Senn responded the teachers retirement unfunded liability is around \$560 million, which will be amortized over the next 36 1/2 years.
- Q. Chairman Farrell asked, if this increase did not go in, what would that be raised to.
- A. Mr. Senn responded that he is not sure, but could get the answer to him. He stated that .031% would fund the cost of this over 40 years so, for the next 40 years, they will need the additional .031%. If they did not have it, Mr. Senn indicated he did not know how much it would extend the 36, adding that he will ask the actuary to calculate that.

Chairman Farrell asked that Mr. Senn provide this information.

Closing by Sponsor:

Representative Gervais stated he is proud of the men and women who served during this period, and feels they are owed a debt by all of us. He indicated this legislation will conform eligibility dates established by the American Legion, and approved by the Congress of the United States. He thanked the committee for the opportunity to appear before them.

Representative Gervais then indicated the lottery also contributes to this retirement, noting he talked with Diane Dowling, who told him that the last period was \$8.4 million. He asked that this be made part of the record.

Vice Chairman Hofman announced the hearing on HB114 as closed.

DISPOSITION OF HB 114

Discussion:

Senator Harding offered a motion that HB114 be concurred in. Chairman Farrell indicated he had asked for clarification on how long it will extend the unfunded liability, if the employer contribution is not increased, and asked if the committee would mind waiting until this information is received. Senator Bengtson stated it is unbelievable that people do not have to buy in, noting she understands it is traditional that they do not. Senator Harding pointed out that is just during the conflicts. Senator Bengtson responded that she does not think so. Senator Abrams indicated he is confused regarding the fiscal impact, and read the fiscal note, noting it figures out to \$20,000. Chairman Farrell indicated he would rather wait for them to get back to him on those costs.

HEARING ON HB 219

Presentation and Opening Statement by Sponsor:

Representative Hal Harper stated this is a housekeeping bill. He reported that, when the legislative auditor was digging through the Department of Justice records, they found that, because of the way the law is currently written, there is a

misstating of some of the funds to some of the accounts. He indicated that, in order to clarify this, this bill has been drafted, and certain statutory appropriation has to be given in order to properly record the cost of certain accounts.

List of Testifying Proponents and What Group they Represent:

Terry Cannon, Department of Justice

Testimony:

Mr. Cannon stated this is a bill introduced by them and, as stated, it is a housekeeping bill as a result of a legislative audit recommendation. He indicated that, right now, a third of the drivers license fee goes to directly, by law, to the highway patrol retirement fund trust account. He reported the legislative auditor pointed out that it should make a stop in the state books, be recorded as an expense, and then go to the trust fund. He indicated that is what this bill is doing, and it also is clarifying some language which states that the employer contribution should be coming from the general fund; it is currently coming from the highway trust fund, because that is the appropriation source of the highway patrol division.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Rapp-Svrcek asked Representative Harper why an extension of the rule-making authority is needed.
- A. Representative Harper responded that a bill was passed through the House deleting the requirement that that section be added to every bill if there is any question, noting he thinks there is probably a question whether some possible extension of rule-making authority might be needed to clarify some things, which is the function that rules serve. He stated that, hopefully, if this bill can be passed through, they will not need to fool with these kinds of things, that a statement of intent will be sufficient. He indicated the new rule-making authority is needed, but this is just to cover bases because, right now, there are a number of statutes where they forgot to put this rule-making extension on, and there is a question as to whether they are legally adopted.

- Q. Senator Harding indicated she is concerned and, in reading the bill, she is wondering why there is no fiscal note. She then asked if this is the same amount of money, noting there is an amendment, "an amount equal to 16.57% of salaries is payable from the same source that is used to pay compensation to the members", and further asked if this is a breakdown.
- A. Representative Harper responded that is correct, that this is just a bookkeeping change, a verification. He stated they increased the amount of money taken from the drivers license fees to try to address the unfunded liability in the 49th legislative session, and they are not fooling with the money, just where it stops, and the bookkeeping procedures, to make sure that it meets what the auditor's preferred position is.
- Q. Senator Rasmussen asked if there is a particular reason why this bill is to be effective upon passage and approval.
- A. Representative Harper responded that it would make sense that, if this is a desirable bookkeeping change, it should go into effect immediately.

Chairman Farrell announced the hearing on HB219 as closed.

DISPOSITION OF HB 219

Discussion:

Senator Harding offered a motion that HB219 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB219 be concurred in.

HEARING ON HB 314

Presentation and Opening Statement by Sponsor:

Representative Richard Nelson indicated this is a bill from the teachers retirement system, the proverbial housekeeping

bill, to clarify a few matters relative to the operation of the teachers retirement system.

He pointed out the phrase "earned compensation", referred to on page 4, line 3 of the bill, is for clarification; Cafeteria Plans are defined on page 4, line 6; the reference to substitute teachers qualifying for their substitute service is covered on pages 8 and 9, starting on line 21 through line 5; the matter of defining the first full-years teaching salary for those who start out as part-time is referred to on page 10, line 23; the provision for the calculation of survivor benefits is on page 11, line 11; and reference to the changing of the minor child benefits from \$100 to \$200 a month is on page 12, lines 2 through 6. Representative Nelson indicated he would like to point out that, as Dave Senn also will mention, at present there are 58 children involved, all of whom are almost 18, and the teachers retirement board felt there was not a significant fiscal impact to justify any alteration in the set-up of the teachers retirement system on that basis.

List of Testifying Proponents and What Group they Represent:

David Senn, Executive Director, Teachers' Retirement System

Testimony:

Mr. Senn's written testimony is attached as Exhibit 7. He briefly summarized that testimony, and indicated that there have been questions regarding if the cafeteria plans reduce the members's gross salary reported to the teachers' retirement system. Mr. Senn stated that they do not, and they are asking to change the definition of the teachers' retirement act so that it is clear, to all people looking at it, that earned compensation includes the gross salary paid to an individual.

Mr. Senn continued to summarize the remainder of his written testimony.

Testimony:

Mr. Campbell stated the Montana Education Association would like to go on record in support of this bill.

Questions From Committee Members:

Q. Senator Harding asked Mr. Senn if, under the cafeteria plan and under early retirement, the benefits would be

SENATE COMMITTEE ON STATE ADMINISTRATION

February 28, 1989

Page 9 of 16

based on the total amount of the payroll for income tax purposes.

- A. Mr. Senn asked Senator Harding if her question is if the benefits will be based on the gross pay the individual receives, or taxes will be paid on the net benefit, less these cafeteria plan deductions, and indicated, if that is her question, that is correct. He indicated benefits will be based on the gross pay the individual receives so, if they are contributing \$50 per month towards health insurance, or \$100, that is deducted from the gross before state, federal and FICA taxes are deducted, but the 7% that the member pays to the retirement system, and the 7.428% that the employer pays to the retirement system, will be calculated on that gross, before any deductions are made.
- Q. Senator Harding asked Mr. Senn to clarify the early retirement.
- A. Mr. Senn responded that early retirement in the teachers' retirement system is now allowed at age 50, with a minimum of 5 year of service. An individual who elects to retire early will receive an early retirement actuarial deduction of 1/2%, per month, for the first 60 months, or 30% for the first 60 months, and 3/10% for each month thereafter. He explained that an individual who retires at age 50 with 5 years of service will receive a 48% reduction, or 52% of the benefit they would have been eligible for, had they waited until age 60.
- Q. Senator Bengtson indicated she understands that substitute teachers will pick up the combined employee/employer contribution, and that this the case for individuals who are going to buy additional service. Senator Bengtson then indicated the committee had the hearing on the veterans bill, extending that time period, and that the veterans do not buy in, and do not contribute anything for the time that they are covered by the teachers' retirement system. She asked Mr. Senn if, in his mind, that is the correct way to do this. She also asked how many instances are there that people do not contribute anything to the retirement system, and yet they are covered.
- A. Mr. Senn responded that, in the teachers' retirement act, military service is the only type of serve the member may receive free of charge. He indicated that started with WWII, was continued through the Korean conflict, and into

the Vietnam conflict, noting the Korean conflict period was extended one time to add a couple of additional years, and the same thing is happening with the Vietnam conflict. He stated that, in each case, the employer contribution was increased to fund the additional benefit for members on active duty between those dates to receive free service.

Q. Senator Bengtson asked if these are the only ones.

A. Mr. Senn responded these are the only ones.

Q. Senator Bengtson indicated they can also apply teaching service out of the country, in private schools and in the military, and asked if they all pay the combined employer/employee portions, or did the school districts fund that, too.

A. Mr. Senn responded that, in 1937, when the system was established, people who had teaching service prior to that date were granted that service free of charge, that there was a retirement system prior to that date, which went broke, and they were allowed to come in and start receiving benefits under the new system. He pointed out that, today, members coming in are obviously not going to have any service prior to 1939 or 1937, and there is no one receiving any additional free credit. He stated also, in the teachers' retirement act, they have allowed individuals to pay only the employee contribution rate, that this was in the early 70's, 60's and 50's, and that those things have been changed. Mr. Senn then indicated that, at one time, individuals could purchase 10 years of service, and that has been shortened to 5, recognizing these things have a cost to the system which is passed on to the employers, stating they have tightened up all of the costs and, today, they require an individual coming in to pay the combined rate, and they are only able to get 5 years. He indicated they have recognized these costs, and tried to control them, and tighten up the provisions for qualifying for additional service.

Q. Senator Bengtson asked if Mr. Senn anticipates any additional extension of these types of services, noting that Korea and Vietnam, and WWII have been covered, and asked if there is anything waiting out in the wings.

A. Mr. Senn responded he does not know.

SENATE COMMITTEE ON STATE ADMINISTRATION

February 28, 1989

Page 11 of 16

- Q. Senator Bengtson stated she thinks the real concern to all of us, as we deal with these retirements, is that there is \$570 million in unfunded liability, and they keep stretching it, saying as long as it does not exceed 40 years paying it back, they are okay.
- A. Mr. Senn indicated the private sector is moving towards 30 years as okay.
- Q. Senator Bengtson asked who decided on 40 years.
- A. Mr. Senn responded he does not know, noting it has been with the system for so long.
- Q. Senator Bengtson asked Phil Campbell, noting he works with this and the educational community a lot, if it has been a concern of his board of directors that we are being extremely lenient.
- A. Mr. Campbell responded that they work with the teachers' retirement system, and obviously have a concern with the soundness of the system. He indicated that, as they look at these additional benefits, they are aware of the costs, and have some concerns about an early 25 year retirement bill that has been heard, which will add additional costs to both the employer and employee. He indicated they support that kind of thing, except that it is bad timing on their part because of the additional cost. Mr. Campbell stated that he thinks all of the benefits that are being brought before the legislature do not extend the liability, because the amounts are being taken care of in terms of increased cost. He noted that all the benefits this committee has dealt with, in other pieces of legislation, are benefits that are available to the members of the teachers' retirement system, if they are willing to pay both the employer and employee share, and it is not an additional liability to the system. He added these are benefits that, if they want to participate, are available to them, assuming those bills do pass, but they do not extend the liability of the system.

Senator Bengtson indicated that is helpful, but noted that she has talked with 4 different school superintendents with budget problems, and she did not know if they are going to be willing to accommodate that additional percentage, that there are school districts that are nearly broke. She stated it is a domino kind of effect.

Closing by Sponsor:

Representative Nelson indicated Senator Blaylock has agreed to carry this bill, if the committee votes in favor.

DISPOSITION OF HB 314

Discussion:

Senator Hofman offered a motion that HB314 be concurred in. Senator Bengtson indicated she thinks this bill is okay, that they are buying their way in, paying the combined contribution, and that they have clarified the provisions regarding substitute teachers.

Recommendation and Vote:

Motion passed by the committee that HB314 be concurred in.

HEARING ON HB 531

Presentation and Opening Statement by Sponsor:

Representative Robert Clark indicated he was asked to carry HB531 by some members of the Highway Patrol as the result of a situation which developed in the Miles City area within the last year.

He reported that Larry Nachtsheim of PERS asked if they would amend the bill to allow the municipal police officers and fire fighters retirement systems to come on to this bill. Representative Clark stated Mr. Nachtsheim stressed to the House committee that this bill does not cost any additional money, and indicated it is primarily deleting language throughout the bill, referring to line 22, Section 1, "for as long as the spouse remains unmarried", and the word "remarriage". Representative Clark stated they feel their spouses have put up with all of their call-outs, all of the times they come home late for dinner, working on holidays, and everything else that goes along with this, including the fact that maybe they will not come home from a shift someday, and indicated they think the wording regarding as long as the spouse remains unmarried in their retirement act is not treating them fair. He indicated that it amounts to, if a spouse remains single, or chooses to live with someone without the benefit of marriage, they would continue to draw the benefits but, as soon as they remarry, they are penalized for that, and lose the benefits.

He noted the benefits then revert to the children until they become of legal age, and that the reason there is no additional funds involved is because the money is there, and is going to be paid out anyway. He noted that leaving it with the spouse, even if the spouse did remarry, does not add any additional cost to this.

Representative Clark related the situation in Miles City, and reported there is a young officer there who is terminally ill, but is still hanging on, longer than he had been expected to. He indicated the officer's wife is 38 years old and, when he dies, if she does choose to remarry, which in all probability she will, she will be cut off from his benefits. He noted she has put up with, for 17 years, all of the things that go along with being the spouse of a highway patrol officer. He indicated the police officers and firemen have the same language in their retirement act, and that no one seems to know why that language was put in there, that there does not seem to be any need for it. Representative Clark stated, for this reason, the PERS people do not have a problem with this change.

List of Testifying Proponents and What Group they Represent:

Howard Gipe, representing himself

Testimony:

Mr. Gipe indicated he would echo what Representative Clark has said, that the real heroes on the highway patrol has always been the women who stayed home, kept the house, and raised the kids, not knowing whether their husband would return after a shift, or not, and, when he didn't return on late shifts, laid awake many days and evenings just wondering what happened to him. He asked for the committee's support of this bill, indicating he can see no reason to penalize the widows of the highway patrol, noting he would second what Representative Clark said, and would appreciate the committee's support on HB531.

Questions From Committee Members:

Q. Senator Rapp-Svrcek indicated he is not against the concept in this bill, but asked Representative Clark about his statement that there would be no increased costs. He indicated that, if the spouse remarries, Representative Clark said the benefits will go to the children until they are 18, asking him if that is correct.

- A. Representative Clark responded that is correct, adding that is age 22 or 23, if they are going to college.
- Q. Senator Rapp-Svrcek stated that, if we allow the benefits to continue, even if the spouse remarries, it is conceivable that it would cost more because those benefits will continue for the lifetime of the person. He then asked if this was brought up in the House, at all.
- A. Representative Clark responded that question was asked of Larry Nachtsheim, in the committee in the House, who responded that the program is actuaried out based on the spouse not remarrying, and drawing the benefits forever.
- Q. Chairman Farrell asked if Mr. Nachtsheim is saying that the money will be there, and the program is actuarial sound for 40 years; if that is the way they are figuring it.
- A. Representative Clark responded that is correct.
- Q. Chairman Farrell then indicated that, if that money is not paid out, it will be actuarially sound in 38 or 36 years; it would be decreasing.
- A. Representative Clark responded he believes that is correct.
- Q. Chairman Farrell asked Representative Clark if the highway patrol system is at 22 or 24 years.
- A. Representative Clark responded he does not know.
- Q. Senator Bengtson indicated she just noticed it has a retroactive applicability date.

Senator Harding pointed out it is only to January 1, 1989. Chairman Farrell asked Representative Clark if that is to cover the case in Miles City.

- A. Representative Clark responded that is correct, indicating that officer was not expected to live until the 1st of February, but he is still alive at this point. He noted it is now really immaterial, but that it was put in for that reason.

- Q. Senator Hofman asked, if the spouse would be covered anyway, until she remarries, why did they need to make it retroactive.
- A. Representative Clark responded they asked if it could be done that way, just so he would know.

Closing by Sponsor:

Representative Clark asked the committee to concur in this bill.

DISPOSITION OF HB 531

Discussion:

Senator Harding offered a motion that HB531 be concurred in. Senator Hofman indicated he has a problem with the bill, indicating it does not seem right to him. He stated that he is perfectly willing to cover this woman until the day she dies, if she does not remarry but that, when she remarries, she starts a whole new life. Senator Bengtson indicated that, in other retirement programs, or pensions, if the woman remarries, she loses her benefits. Senator Vaughn pointed out they have Social Security. Senator Hofman noted the children are covered, and it does not create a hardship. Senator Bengtson noted the money is there. Senator Harding stated she thinks that, in this situation, as brought out by the highway patrolmen, this woman is entitled to that, regardless of what happens, adding she thinks it is a good bill. Senator Anderson commented that, if there are children, it is probably justified, indicating that one of the speakers commented that, in some instances, the woman would not remarry if she would lose her benefits, but may live in, and he feels it has some merit. Senator Abrams indicated, if this bill passes, and the woman remarries, she gets the benefits and the children get zilch.

Chairman Farrell indicated the children are covered until they are 18, or 22, if they are in college. Senator Abrams stated, the way it is, that is if she remarries or dies. He asked, if this bill passes, and she gets the benefits, what about the children. Senator Rasmussen indicated there is only so many benefits, that it either funnels to the mother or the children, and it is not doubled. Senator Bengtson stated that is her responsibility. Senator Abrams stated that is where the problem comes in. Senator Hofman noted, if she remarries, the children do not get any benefits. Senator Rasmussen stated,

SENATE COMMITTEE ON STATE ADMINISTRATION

February 28, 1989

Page 16 of 16

as the law is now, if she remarries, the money apparently goes right to the kids, adding that, if they are minors, it will go indirectly to the mother, who is taking care of the kids. Senator Vaughn pointed out the payments to the dependent child must be made to the child's appointed guardian, either the mother or other guardian. Senator Rasmussen indicated this law changes it so it will go directly to the mother, instead of the kids. Senator Vaughn stated the only difference is that the benefit that goes to the child only goes until they are 18, or 22 if they are in college, but the spouse would receive the benefit until her death, noting she still is responsible for the children, but only until they are of age.

Recommendation and Vote:

Motion passed by the committee that HB531 be concurred in, with Senator Hofman opposed.

OTHER BUSINESS

There was discussion regarding the committee's schedule, and Chairman Farrell announced the committee will review the appointment of K. L. Cool, from South Dakota, as director of the Department of Fish, Wildlife and Parks on March 16.

ADJOURNMENT

Adjournment At: 11:10 a.m.


WILLIAM E. FARRELL, Chairman

WEF/mhu
HB114.228

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: February 28, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

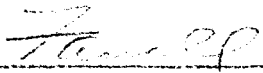
February 28, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 219 (third reading copy -- blue), respectfully report that HB 219 be concurred in.

Sponsor: Harper (Rapp-Svrcek)

BE CONCURRED IN

Signed: 
William E. Farrell, Chairman

*Y.C.
2/28/89
1:44 p.m.*

SENATE STANDING COMMITTEE REPORT

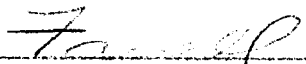
February 28, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 314 (third reading copy -- blue), respectfully report that HB 314 be concurred in.

Sponsor: Nelson, R. (Blaylock)

BE CONCURRED IN

Signed: 
William E. Farrell, Chairman

SENATE STANDING COMMITTEE REPORT

February 28, 1989

HR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 531 (third reading copy -- blue), respectfully report that HB 531 be concurred in.

Sponsor: Clark (Bishop)

BE CONCURRED IN

Signed: Farrell
William E. Farrell, Chairman

41.0.8189
3/28/89
1.44.07

EXHIBIT NO. 1

DATE 2/28/89

BILL NO. HB114

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: DAN ANTONIETTI DATE: 2-28-89

Address: PO Box 1728
Nelena 59624

Phone: 449 - 5431

Representing whom?
US Dept of Labor - VETS

Appearing on which proposal?
HB - 114

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

membership in The American Legion. The motion to adopt this resolution was defeated.

The next resolution considered was Resolution No. 387 (Calif.). A Motion was made by Leon Reed (Ark.) and seconded by Melvin H. Heckman (Ind.) to reject this resolution. This resolution dealt with eligibility dates and sought to change the eligibility dates for membership in The American Legion during the Vietnam Conflict by removing the present date of August 5, 1964 and substituting therefore the date December 22, 1961.

A roll call vote was requested and 24 members voted to reject the resolution and 18 members voted to adopt it. The resolution was therefore rejected.

Resolution No. 110 (PA) was considered next. A motion was made by Fred Rohrer (MD) and seconded by Joe L. Matthews (TEX.) to reject this resolution. This resolution sought to amend Article VI, Section 1, of the National Constitution so as to increase the number of National Vice Commanders from five to eight and to set up Regions from which the eight Vice Commanders would be elected. This resolution further would segregate the voting by members of The American Legion for all national officers, and further, was not in the best interest of the smaller Departments of The American Legion. It would deprive the smaller Departments in a Region of the right to elect a National Vice Commander, as the larger Departments' vote could dominate the region. The motion to reject this resolution was unanimously adopted.

The next resolution considered was Resolution No. 388 (Calif.). A motion was made by Fred Rohrer (MD) to reject this resolution and seconded by Henry Renard (WIS). This resolution involved the question of dual membership. Similar resolutions have been before this Committee numerous times and had been held for further study. The motion to reject this resolution was adopted. Two members of the Committee, James A. Gilbert (Calif.) and Marshall C. Gardner (DC), requested to be recorded as voting for its adoption.

Resolution No. 545 (Minn.), which resolution sought to reinstate the Forty and Eight as a subsidiary organization of The American Legion. The resolution was received too late to be circularized to all the Departments of The American Legion as required by Article XV, Section 1, of the National Constitution and therefore, was not considered by this Committee and no recommendation could be made thereon.

There being no further business before this Committee a motion was made by James A. Gilbert (Calif.), seconded by Carmello Puzia (Me.) and unanimously adopted that the meeting stand adjourned.

The report was adopted except Resolution No. 387 (California) was set aside.

MICROPHONE NO. 4 (Delegate from Wisconsin): I have a point of order as to the minutes, a slight omission.

NATIONAL COMMANDER CAREY:
What is your omission?

MICROPHONE NO. 4: On Page 3 of the Motions made to adopt Resolution No. 176, there was a motion passed on the floor which does not appear in the minutes, and I believe it should.

There was a motion made that a Mr. Smith of Colorado was permitted to speak and explain that. Could I ask that that be included?

COMMANDER CAREY: The minutes will be corrected to show that the motion was made as passed to allow Mr. Smith of

Colorado to speak in regard to the question of a body count in Vietnam.

That motion was made, but the man was not a member of the Committee and it was passed and allowed and it will be placed in the records of the Convention with the motion listed.

NATIONAL COMMANDER CAREY:
The report is adopted with the exception of Resolution No. 387. Mr. Chairman, will you please read the resolution?

Resolution No. 387 (California) — "Change in Eligibility Dates"

WHEREAS, The eligibility dates for membership in The American Legion are determined by the Congress of the United States of America by the establishment of specific dates during which the United States of America was involved in a war, declared or undeclared, or other hostilities, and

WHEREAS, Members of the Armed Services of the United States of America were called upon to defend the principles of democracy and justice in all parts of the world including Vietnam beginning December 22, 1961 to and including August 4, 1964, and

WHEREAS, Members of the Armed Services of the United States of America were called upon to defend the principles of democracy and justice in all parts of the world including Laos April 19, 1961 to October 7, 1962, and

WHEREAS, Members of the Armed Services of the United States of America serving during the aforementioned dates may have prevented a period of tension or armed stalemate from developing into an actual war, and

WHEREAS, No action was taken on the part of The American Legion to petition Congress to change the eligibility dates for those members of the Armed Services who were ready, willing and able and did in fact serve honorably during the aforementioned periods of time; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Houston, Texas, August 21-23, 1979, That the National Legislative Commission be requested to petition to Congress of the United States to further amend Section 5 of the act entitled "An Act to Incorporate the Legion," Public Law No. 47, 66th Congress, approved September 16, 1919, (c. 59, Sec. 541 Stat. 285, October 29, 1942; c. 633, Sec. 2, 56 Stat. 1012, July 9, 1946; c. 546, 60 Stat. 524, December 28, 1950; c. 1177, 64 Stat. 1122, July 26, 1955; c. 386, Sec. 2, 69 Stat. 380, September 1, 1966, Public Law 89-550, Sec. 2, 80 Stat. 372, Title 26 USC, Sec. 45, December 27, 1974, Public Law 93-557, Sec. 5, 41 Stat. 285, Title 36 USC, Sec. 45), to read when amended as follows:

"Section 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to May 7, 1975; all dates inclusive, or, who, being a citizen of the United States at the time of entry therein, served in the military or naval services of the governments associated with the United States during said wars or hostilities; provided, however, that such person shall have an honorable discharge or separation from such service or continue to serve honorably after any of the aforesaid terminal dates," and be it further

RESOLVED, That when and if the Congress of the United States enacts the above amendment, and the

President of the United States shall have approved the same and it becomes law, when the National Constitution of The American Legion shall be deemed amended in conformance therewith, but subject to all consistent limitations and restrictions in the Constitution contained, all as provided for under Article XVII thereof, so that Article IV, Section 1, and Article XIII, Section 2, of the aforesaid National Constitution of the American Legion, shall read as follows:

Article IV Eligibility:

"Section 1. Any person shall be eligible for membership in The American Legion who was a member of the Army, Navy, Marine Corps, Coast Guard or Air Force of the United States and assigned to active duty at some time during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to May 7, 1975; all dates inclusive or who being a citizen of the United States at the time of his entry therein, served on active duty in the Armed Forces of any of the Governments associated with the United States during any of the aforesaid periods; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or contained honorable after any of said period; provided, further, that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscientious political or other grounds to subject himself to military discipline or unqualified service."

Article XIII: Auxiliaries:

"Section 2. Membership in the American Legion Auxiliary shall be limited to the mothers, wives, daughters, sisters and granddaughters of members of The American Legion and to the mothers, wives, daughters, sisters and granddaughters of all men and women who were in the Armed Forces of the United States during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to May 7, 1975; all dates inclusive, or who being citizens of the United States at the time of their entry therein served on active duty in the Armed Forces of any of the Governments associated with the United States during any of said periods, and died in line of duty or after honorable discharge; and to those women who of their own right are eligible for membership in The American Legion."

The resolution was subsequently approved by a voice vote.

NATIONAL COMMANDER CAREY:
Ladies and gentlemen, we have the press up front for a reason. I want to repeat this to

you because I am going out back for a press conference over this. It has to do with what we have spoken about earlier and what I tried to speak about all year, and that is The American Legion's activity, political activity, motivation and involvement. One of our veterans organizations has come out strongly in the paper and using the name of The American Legion and the VFW, and we have to join them in the particular point of getting the Constitution changed, to get a political action committee.

The following is a statement which I will now release to the press:

The American Legion is and has been the most effective Veterans Organization in the history of this Country.

Trace the history of the GI Bill and you trace the history of The American Legion.

As good citizens each of us has the duty to be informed on political issues and to actively participate in the political process of our Country. Not to do so is to abdicate our civic duty.

However, becoming better informed and working as individuals for the election of candidates who support our beliefs as veterans, does not require The American Legion to follow the VFW in forming a political action council.

To do so, I believe would cause The American Legion to become just another political group, lose our uniqueness as a Veteran Organization, and our tax exempt status.

What I am saying is that we Legionnaires as individual good citizens, interested in the future of America, must get involved and work for and contribute to candidates who support our legislation and national security positions.

This is my position, and we will have a little press conference. I will turn the mike over to National Vice Commander Nathan Wolfe to close the meeting and for the drawings.

NATIONAL VICE COMMANDER WOLFE: Is there any further business to come before this session of the Convention?

The delegates will join me in saluting the flag.

(The delegates saluted the Colors.)

The Convention will stand in recess until tomorrow morning at 8:30 a.m.

(The session was recessed at 3:15 p.m.)

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 2/28/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 114

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: John DENHERDER DATE: 28 FEB 89

Address: 3333 Canyon Ferry Rd.
East Helena

Phone: 227-5728

Representing whom?
DEPT OF MT Disabled American Veterans

Appearing on which proposal?
HB 114

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/28/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB114

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: George Poston

DATE: Feb 28, 1989

Address: P.O. Box 4385
Helena MT. 59604

Phone: 443-4818

Representing whom?
United Veterans Committee of MT

Appearing on which proposal?
HB-114

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 2/28/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 219
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:

Terry Cannon

DATE:

2/28/89

Address:

Phone:

Representing whom?

Dept of Justice

Appearing on which proposal?

H.B. 219

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 6

DATE 2/28/89

BILL NO. HB 314

STATE ADMINISTRATION COMMITTEE

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: David L Senn

DATE: 2/28/89

Address: _____

Phone: _____

Representing whom?
Teachers' Retirement System

Appearing on which proposal?
HB 314

Do you: SUPPORT? AMEND? OPPOSE?

Comments:
see Exhibit #7

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

HB314
Teachers' Retirement Board
David L. Senn
February 28, 1989

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 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.

