

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on March 10, 1989, at 9:00 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 270

Presentation and Opening Statement by Sponsor:

Representative Jack Ramirez indicated this is a minor bill, as it presently stands, but has the potential to help save a tremendous amount of money for the state, and give the public better access to information the state provides. He explained it would be a pilot program in which there would be a state electronic bulletin board where the state would, through a personal computer with telephone access, using a local line in Helena, and a toll-free line for state access, provide certain information which could be accessed by computers. He stated there is a tremendous amount of information which can be put on a small computer, in order to be accessed, indicating the potential for saving money is, as an example, the technical information provided by the Department of Natural Resources on the snow pack in Montana, which very important to a number of different groups. He indicated that, currently, a person will call the Department of Natural Resources, find the person who is in charge of this information, and ask what is going. He noted this takes that employee's time, and the state's money, to get this information, which the employee is more than willing to provide, but

is information that can be put on a small computer so that, people who are interested in that information, can call for it on a frequent basis, and not take the time of the state employee.

Representative Ramirez stated there are all sorts of different types of information that could be put on computer, noting, for example, all proposed rules and regulations of the state. He indicated that, if someone wants to call in, using their telephone and computer, they would be able to get information on rules hearings that are scheduled, get the text of the proposed rules, and they can get it right through their computer access, thus saving the time of the state employee who would otherwise have to be contacted, would have to make a copy of the material, and send it to them. He stated that it has the potential to save money, and also has the advantage of giving increased access, bringing us in to the electronic age. He noted this is being done with some of the departments, and this would centralize it.

List of Testifying Proponents and What Group they Represent:

George Ochenski, representing himself.

Testimony:

Mr. Ochenski stated this bill came out of his personal use of modems, and the ability to transfer information, quickly and accurately, from one computer to another, without involving an employee to take care of the information. He stated he uses it, as chairman of the state's drought task force, to download, noting that is the terminology for dropping information on your own computer over the phone line. He indicated he downloads information weekly, regarding the snow pack and precipitation reports, during the summer, noting that it works great. He stated this is a pilot program, and that his original concept was to put a computer bulletin board into every department of state government, noting they had to cut it back, considerably, realizing the fiscal constraints of this session.

Mr. Ochenski stated he thinks it is the wave of the future, and that, for those people in continuous contact with state government, this probably will be a significant way to get information quicker and more easily, noting it will also save the state copying costs, personnel costs, and mailing costs. He stated that, during his time at EIC, they often received thick packets of information from the various departments involved with natural resources, and they may have only been

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 3 of 51

interested in one page out of the whole packet. He noted that, although they were only interested in one page, the state had to duplicate and send all of the pages, and pay the postage on it, adding that they would look at the one page they were interested in, and throw the rest away. He noted that most offices are computerized, and the modem is an adjunct piece of equipment to a computer. He indicated that, from their office, using this system, they could have just as easily called up, dropped the information off and, if they were interested in it, print it. He added that, if they were not interested in it, the information goes back up to electron heaven, and they would not even have to waste the paper, that they could read it on the screen, and let it go.

Mr. Ochenski indicated some representatives of the Department of Administration were going to be here, but he suspects they thought the hearing would be at 10:00. He indicated to Chairman Farrell, if they come in late, he would appreciate it if they would be given the chance to talk about how they think it would work. He noted he thinks one of the things they will say is that this will also help inter-agency communications, because people would be able to transmit information, without having to put it on paper, and either carry it, or send it to other departments.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

Chairman Farrell asked Representative Ramirez if he would like the hearing held open for another hour or so. Representative Ramirez indicated he would appreciate that, in case someone from the Department of Administration shows up, noting they did appear at the House hearing, and were very supportive of this, that they really want to do this, and think it could be tremendously helpful. Representative Ramirez indicated they do something like this with the Montana Agricultural Marketing bulletin board right now, which has worked very, very well. He indicated this is a spin-off, more or less, from that, and is something where they can broaden it into more agencies in government, providing information and access to the public, and doing it at a lower cost.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 4 of 51

Senator Bengtson asked if this went through House Appropriations. Representative Ramirez responded that he does not know, but he does not think it did, because it had such overwhelming support, and is such a good idea. Senator Bengtson noted there is a fiscal note. Representative Ramirez acknowledged that, and that it is for \$14,000. He indicated it was discussed whether or not to send it to appropriations, noting the only cost is the telephone line; the primary cost is for the toll-free line. He noted that he recognizes it is hard for the appropriations and finance and claims committee to get a handle on how much money this kind of system would save, indicating perhaps they need a study to figure that out. He pointed out that state employees spend an enormous number of hours, and expense, on the telephone answering questions from the public, and this is a way to help save a lot of that expense. He indicated this is not going to eliminate it completely, but that, some day, they will have to figure out how much has been saved by having this kind of a system, noting they have to have this in place and operating, in order to take the second step, the money saving aspect of it. He offered a document to the committee which shows how this is working for the Department of Agriculture, a copy of which is attached as Exhibit 1.

Mr. Ochenski reported that the people from the Department of Administration were here on Monday, the date the bill was originally scheduled for hearing, that they knew the hearing was rescheduled for today, and he is sure they will be here. He noted he thinks they will show up at 10:00. Chairman Farrell announced he will leave this hearing open for a couple of hours.

Additional Testifying Proponents and What Group They Represent:

Mike Trevor, Administrator, Information Services Division,  
Department of Administration

Testimony:

Mr. Trevor thanked Chairman Farrell for holding the hearing on HB270 open, giving him the opportunity to speak to the committee. He stated he feels it is important the committee know that the Department of Administration does support this bill, in the form that it is in, which is to set up a prototype to test the concept of instituting an electronic bulletin board for direct access by the private sector into state government, making government information more readily accessible to the private sector. He stated they strongly

support that concept and that, in fact, they have worked with other agencies, such as Legislative Council, to make the bill status system available to the public by direct computer connection. He indicated he could say a lot more, but knows the committee has had a real busy morning, and he will make himself available to answer any questions, noting he brought along a member of his staff, who can answer any technical questions they might have.

Chairman Farrell announced the hearing on HB270 as closed.

#### DISPOSITION OF HB 270

##### Discussion:

Senator Bengtson offered a motion that HB270 be concurred in.

##### Recommendation and Vote:

Motion passed by committee that HB270 be concurred in.

#### HEARING ON HB 604

##### Presentation and Opening Statement by Sponsor:

Representative Helen O'Connell stated that her reason for being here this morning is what she calls the equalizer bill, which is for the retired police, or those that are going to be retired. She reported that, under current law, the monthly retirement allowance for a municipal police officer who retired before July 1, 1975 may not be less than one-half the monthly compensation paid to the newly confirmed active police officers. She added that current law also provides the monthly retirement allowance for a municipal police officer who retired on or after July 1, 1975, but before July 1, 1985, may not be less than one-half the monthly compensation paid on July 1, 1985 to a newly confirmed active police officer. She indicated this bill provides that the monthly retirement allowance paid to a member who retired on or after July 1, 1985, may not be less than one-half the monthly compensation paid to a newly confirmed active police officer. She noted that, under this bill, all retired police officers would receive the same automatic cost of living increase, regardless of when they retired, adding that the bill would be effective July 1, 1989.

Representative O'Connell indicated the committee members may recall that, 15 years ago, she carried a retirement bill for the firemen, the voluntary firemen throughout the State of Montana, noting that everything they received, at that time, was all they were entitled to. She indicated that, 13 years ago, she carried the police bill, noting it was capped at 1975, and they have been stalemated since that time. She stated that HB604 will resolve the current problem of pre-1975 retirees receiving more than some 1975 retirees, and will equalize benefits between the police and fire fighters retirement systems. She indicated these systems were intended to have similar benefits levels and, depending on the faith of other legislation before the current session, this retirement system is the last system without some type of cost of living increase for its retirees. She further stated there is no actuarial cost to the retirement system, that funding is provided from a tax premium fund specifically created for this purpose. She added that sufficient funding exists in the tax premium fund to pay the supplemental benefits, without a foreseeable increase in tax premium rates.

Representative O'Connell reported that the history of the tax premium fund is that the premium tax, collected from insurance sold in this state to insure against specific risks, is a tax specifically instituted to assist in paying retirement and survivorship benefits for police and fire fighters in Montana. She indicated that, at one point in time, the dangers facing fire fighters and police officers in Montana were such that cities found it difficult to recruit and retain trained personnel in these areas, noting that the pay and other benefits available to police and fire fighters did not compensate for this risk. She reported that the lack of trained personnel was causing an additional problem for insurance companies, and Montanans paying for insurance, and the insurance risks were becoming so great that the insurance industry proposed instituting the insurance premium tax to fund increased benefits for police and fire fighters. She indicated the objective was to increase retirement, disability and death benefits as an aid in recruiting and retaining qualified personnel, and thus reduce the insurance risk, and the premiums, in the state. She noted this was first started in 1975, and the residual of the tax that is not used reverts back to the general fund. She indicated that it is for the volunteer fire fighters, fire fighters, local fire fighters, municipal police, local police, actuary services, etc.

Representative O'Connell reported she was asked a question, after she presented this bill to the State Administration Committee in the House, about how much this was costing the

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 7 of 51

general fund, and that she quickly said the general fund has made thousands of dollars off of this. She indicated that Larry Natchsheim approached her and said she was wrong, that the general fund has made millions of dollars off the money going to the police and fire fighters. She noted she is giving the committee the facts and, if they have any questions, she would be very happy to answer them, adding that there some retired police officers are here. She then stated that, after having this heard in the House of Representatives State Ad, they learned of the police officer who was killed in Billings. She indicated that, sometimes, maybe her heart goes a little farther than it should, but she thought, at that time, about his widow and little ones and, if this is enacted, maybe it can be retroactive, and she could be getting a couple dollars more a month than what she is entitled to, now, under the bill that was cast in 1975.

List of Testifying Proponents and What Group they Represent:

Bill Steele, Chairman, Legislative Committee, Montana Retired  
Polices Officers Association  
Earl D. Kelley, Retired Police Officers Association  
Frank W. Cole, retired assistant police chief, Missoula  
Tim Shanks, Great Falls Police Department  
G. Lee Meltzer, Missoula Police Association  
Charles Bicsak, retired police officer  
Nadiean Jensen, Executive Director, Montana Council 9,  
American Federation of State, County and Municipal  
Employees  
Senator Fred Van Valkenburg

Testimony:

Mr. Steele's written testimony is attached as Exhibit 5. He indicated that, regarding the funding of this system, the total tax premium collections that Representative O'Connell made reference to, in 1987, were \$11,199,932 and, of that, \$5,654,244 went into the retirement system, and \$5,545,688 was reverted to the general fund. He noted he realizes that how this is visualized is a point of debate, but their view is that \$5 million went into the general fund, that the small amount they are asking for in this bill becomes minimal and, therefore, there should not be any real problem with it. He indicated he realizes the committee members are facing the financial crunch, and the problems they take on, on a daily basis, represent money coming out of the general fund, but noted this is not, and he thinks Representative O'Connell has covered that sufficiently. He indicated he will not read the sections of the state law which specify that this goes into

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 8 of 51

the retirement system, unless the committee asks him to, noting that, if they force him, he will, but he is sure they won't. He indicated, for instance, there is an officer here today that retired after July 1, 1975, who had the misfortune of retiring in September of 1975. He indicated that, by 1985, that officer was receiving some \$200 less per month than an officer of equal rank who retired 2 months before him, in June of 1975.

Mr. Steele reported they came to the Legislature with basically the same bill in 1985, and it was decided that there would be a one-time adjustment, in 1985, to take care of these officers. He indicated there were about 16, at that time, and that officer, today, just in the period of time between 1985 and this year, is now again \$80 or \$90 less, depending on which officer you are talking about, than what his co-officer, who retired before 1975, is getting. He stated this law can not be banded every time they come up here, noting he is told it costs the state \$5,000 every time they come up here to present a bill. He indicated he would like to save that \$5,000 by having the Legislature take care of them, and take care of these retired officers. He reported that he retired as assistant chief of police in Great Falls, and his pay level has not fallen below one-half of an officer's pay, noting he is not here for himself, specifically, but is here for those officers for whom it has fallen below. He noted the committee will hear from a retired assistant chief of police from another city whose retirement pay is less than a patrolman who retired prior to 1975, and indicated these inequities just go on and on and on. He indicated they are asking the committee to rectify this, noting they call it an inequity type situation, but that he is to the point where he calls it discrimination. He added there is a discriminatory factor involved in that one man lays his life on the line, as a police officer and, after being assured he has a retirement coming, when he gets it, he finds out he is getting a couple of hundred less than the guy he worked with somewhere back down the line. Mr. Steele indicated he thinks it was very appropriate that Representative O'Connell commented about the tragedy down in Billings, noting they now have a widow from Billings, with children and, at the present rate, because her retirement falls into that after-1975 category, she very easily will fall into the situation of receiving \$200 a month less, as a lot of people are right now, when she most needs that money for those children.

Mr. Steele asked that the committee please support this bill.



SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 9 of 51

Testimony:

Mr. Kelley stated he is the one Mr. Steele was referring to, reporting that he retired September 5, 1975 and that, when the bill went through in 1985, he got a \$224 raise. He indicated that, between 1984 and 1985, he lost a few thousand dollars in income and, since 1985, he is down another \$1200. He stated he thinks this should be taken care of, because he is not alone, that there are others out there like him, and the list is growing.

Testimony:

Mr. Cole stated that, when he retired, he had a very good retirement, but it has declined to the point where he was receiving \$150 less in 1985, adding that, with the correction of that situation, he is now receiving \$45 less than the pre-1975 people. He indicated he would like to touch on something some people bring up when talking, which is that policemen retire young enough that they can go work somewhere. He indicated that, in Missoula, 8 out of 12 officers that retire have heart problems. He reported that policemen develop hypertension and indicated that, the first night he went to work, in the fifth bar he walked in to, a person came up to him with blood pouring from his arm, that the person had been shot. Mr. Cole stated they get up on a level, they live that way for 20 years and, after they retire, they can't get down. He reported that he woke up one Sunday morning, and his heart felt funny. He indicated he called his wife, and that she checked, and could not find a beat. He stated he felt fine, except there was a chill, but he went to the hospital, and his heart was going 190 beats. Mr. Cole indicated he was a very calm officer, that he never let anything bother him, so he thought. He indicated this happens, all the time, with police officers. Mr. Cole reported that, in his situation, after 6 hours of drugs, and nothing happened, they put the paddles on to slow it down, and the doctor said, "You've got to stop working at 5:00. You've got to settle down."

Mr. Cole indicated he is not trying to reach, so much, for sympathy, noting that he has spurs on 2 hip sockets that needed operating on 5 years ago but, thanks to cortizone, things are going great. He stated he looks fine, that he is one of the healthy ones, noting there are other things, that people get injured, there is arthritis, and things happen after 50, adding that he does not believe in officers working after 50, that he does not think they can do the job. He indicated they are not asking for the sky, that they are not asking for half of a retired chief's pay, but they are asking

to stay at a minimum pay scale, that this is what this bill would do, by attaching them to the present retired officers.

Mr. Cole then reported the opening of his stomach is gone, that it disappeared when he was working, noting that he never took treatment for it but, later, found that he had ulcer all the time he was an officer. He indicated that a policeman, when working, is just like a fireman who is fighting a fire. He noted there are a few that you can't cut off, that they can't ever take care of the problem, can't completely stop the fire. He indicated they can hold it at a level, but it creates a tension. Mr. Cole stated that, rather than drag this on, he is not just requesting that this be taken care of, or begging that this be taken of, he indicated he will humble himself. He stated they can not tell their police officers, every time they come back from meetings over here that, no, their retirement is going to decline from their present level down to less than the pre-1975 people. He reported this has a lot of people concerned and, most of all, those that are affected.

Testimony:

Mr. Shanks stated he is currently under the present retirement system, which is work 20 years and age 50. He indicated he has, unfortunately, 14 more years to go before he is eligible for retirement, noting that, once he receives his retirement, he would like to have some assurance that the Legislature has spent some time to at least look at the police officers. He reported they do a lot for the communities, indicating he was born and raised in Great Falls, educated in Montana, and that he does not want to leave Montana, that he likes it here. He asked that the committee please allow police officers, noting there are many in the state, somewhat of a comfortable retirement, when that time is near, and to please support HB604. He noted that, obviously, the committee has heard from the retired officers, and may hear from more, many from Great Falls. He indicated there is an inequity, it needs to be rectified and, with the committee's help, they hope it is.

Testimony:

Mr. Meltzer indicated he is here to, basically, talk a little about how the active members of the Missoula Police Association feels. He reported that they feel very strongly in relation to these inequities, and hope that the committee will take them into consideration for the spouses, and the officers who will retire in the future. He indicated the committee has heard about the tragedy of the officer in Billings, and noted

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 11 of 51

they have lost 3 in Missoula, in recent years. Mr. Meltzer stated one of them affected him deeply, and one affected this officer (Mr. Meltzer indicated another gentleman in the room), noting it was his brother. He indicated that the wives, children, and spouses of an officer who goes on disability, which is one of the things this covers, have difficulty sending their children through the educational systems, even within Montana, due to the cost, because of the inequities in this retirement system. He indicated he would not belabor those points, but would ask the committee to think very strongly to support.

Testimony:

Mr. Bicsak reported that he retired in 1972, and came under the old bill, but indicated he feels those officers who have just retired, or are going to be retired, should be brought back up to the same level as when he retired. He indicated he was on that for 23 1/2 years, and feels it is only right that they fight for those officers who are below the pay scale of when he retired. He noted he hopes this committee takes that into consideration.

Testimony:

Ms. Jensen reported her organization represents police officers in Butte, Helena, Livingston, Laurel and Miles City. She indicated they have, within their council, a resolution from those police officers strongly in support of legislation similar to Representative O'Connell's HB604, and would ask the committee's support of this bill.

Testimony:

Senator Van Valkenburg stated he speaks as a proponent to this bill, noting he has had a close association with law enforcement for the last 15 years in his professional capacity. He indicated he knows a lot of the officers who retired both pre-1975, and subsequent to 1975, in his own community, noting he sees the inequities on a daily basis. He stated he is also familiar with the state's financial situation, and had some very difficult discussions with some of the proponents of this bill about what the true source of funding is, and indicated a very strong case can be made that this insurance premium tax would not be in place, were it not for the efforts of the police and fire fighters of this state.

Senator Van Valkenburg encouraged the committee to look at what they should know, but is slow to dawn on a lot of us

around here, that the police officers of this state are a de-politicized entity, which is largely because they have devoted their lives to public service, rather than the self-interest benefits associated with the political process. He indicated he thinks there are times when legislators do not get a lot of cards and letters in support of particular bills, but they know when something that is before them is really morally right, and necessitates their action. He stated this committee has an excellent reputation this session for considering these issues, particularly in retirement systems, and he would hope they would do that with respect to this bill. Senator Van Valkenburg then volunteered to carry the bill, after it passes out of committee.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked why there is not someone from the retirement system here.
- A. Chairman Farrell responded probably because this bill was scheduled for after 10:00, and that this hearing is being held open, in case the representatives from the retirement system get here after 10:00.

Representative O'Connell reported that she asked Mr. Larry Natchsheim to attend, but he indicated there was no reason for him to. She indicated he offered to attend, if she wanted him to, noting he said the monies are there. She reported she has since learned that he has been hospitalized, that he had surgery.

- Q. Senator Bengtson indicated the committee has been working with Linda King.
- A. Representative O'Connell responded that she did not mention it to Ms. King.
- Q. Senator Bengtson indicated she is concerned about the contribution rates, noting there was a statement made that they want to equalize between the police and firemen.
- A. Representative O'Connell responded that is correct.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 13 of 51

- Q. Senator Bengtson asked, referring to the comparison chart, is it true that the police contribute 6.075%, and the fire fighters contribute 6.0%.
- A. Mr. Steele responded, noting he can not speak for the police, that those fire fighters who came on prior to 1979 currently make a contribution of 6%, whereas those who came on after 1979 make a contribution of 7 1/2%. He added that it is an interesting fact to those on the 6% level, who are not paying the 7 1/2%.
- Q. Senator Bengtson indicated she would like to confirm, regarding equalization, that the employer for both the policemen and fire fighters contributes 13.02%, and the state, from the premium tax, for the policemen, contributes 15.06% and, for the fire fighters, 22.98%. She reported that was increased this session, indicating there is a case that there is no equalization between those two, adding that neither the police nor the fire fighters are eligible for Social Security.
- A. Representative O'Connell responded this is true, and indicated the fire fighters bill was capped at 1975, which then froze the police, and that this bill is so that all the officers who are on duty today, and those in the years to come, will be treated equally.
- Q. Senator Bengtson indicated the fire fighters can retire with 10 years of service.
- A. Representative O'Connell responded she did not know that.
- Q. Senator Bengtson indicated that is what the chart says, and pointed out that the policemen can retire with 20 years of service, noting there is, in that portion, an inequity. She noted that, if they want equalization between the two, there are points at which they aren't equal.
- A. Representative O'Connell responded that is right. She indicated the monies are there, they are coming in, and noted, as was pointed out by Mr. Steele, the general fund has made millions off the premium taxes.
- Q. Senator Anderson asked how much the insurance premium tax brings in, noting that apparently it is a large part of the funding.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 14 of 51

- A. Representative O'Connell responded that the premium tax, from 1910 to 1975, went into the general fund. She noted that Mr. Steele mentioned \$11 has gone into the general fund.

Mr. Steele indicated that is \$11 million in premium tax. He noted that, after the payments had been made, there was a balance of \$5 million which went into the general fund.

Representative O'Connell noted the tax premium which reverted to general fund was \$5, 545,688.37.

- Q. Chairman Farrell asked Mr. Steele if they are asking that the premium tax, which is due to sunset in 1992, be allowed to continue, which is what the fire fighters have asked.

- A. Mr. Steele responded that they are not asking for a continuation, that it will sunset in 1992. He indicated they are asking for an additional amount to facilitate this bill, noting they are not looking at the \$95,000 in the unfunded premium tax.

- Q. Chairman Farrell indicated that the fire fighters asked to continue that.

- A. Mr. Steele responded this is totally separate from that, noting they are not interested in the unfunded premium tax. He asked if Chairman Farrell would like to have the letter from Mr. Natchsheim, noting it was in reply to his query to the actuarial firm. He indicated it is going to be approximately \$125,000.

- Q. Senator Bengtson asked if that was \$125,000, noting that is not the figure on the fiscal note, which is \$151,800.

- A. Mr. Steele responded that is from the tax. He noted that is what it will cost, generally, and is the figure they have been working with, since that is the figure they received from Mr. Natchsheim.

- Q. Senator Bengtson asked David Senn if he works with any retirement systems, other than the teachers retirement.

- A. Mr. Senn responded that he only works with the teachers retirement.

Closing by Sponsor:

Representative O'Connell indicated, in answer to Senator Bengtson regarding PERS not being here, that she begged them to appear, and Mr. Natchsheim said there is no reason for it. She stated that all she is asking is that the police who are retired, or are being retired, and the active officers, will be treated the same as the fire fighters.

Chairman Farrell announced the hearing on HB604 as closed.

DISPOSITION OF HB 604

Discussion:

Senator Bengtson indicated they know the differences in the state's contribution, and the differences in retirement ages, and she does not think there is any reason to hang up on those questions. She noted they will find out the answers to them, at some time, and she is willing to leave those questions in her mind. Senator Bengtson then offered a motion that HB604 be concurred in.

Chairman Farrell indicated that one of the reasons these people are so far behind is that they have not come in, noting the firemen did come in. He indicated they have been an a-political group, and have not been up here pestering us, that they very seldom hear from the police retirement system. Chairman Farrell stated he thinks this is a just bill. Senator Bengtson noted that she is not sure it has been equalized yet, that, to her, it doesn't sound like it, noting that the fire fighter's pension was increased. Chairman Farrell pointed out that they are not even asking to take the tax, that the tax is still going to sunset in 1992, noting that the firemen just asked to have that put on the top of it. Senator Bengtson indicated she would be willing to forget about the questions she has.

Recommendation and Vote:

Motion passed by the committee that HB604 be concurred in.

HEARING ON HB 264

Presentation and Opening Statement by Sponsor:

Representative Tom Hannah distributed copies of testimony from the Montana Magistrates Association, Mr. Wallace A. Jewell, a copy of which is attached as Exhibit 12.

Representative Hannah indicated that, when they go meet with their county commissioners and local elected officials, they have a list of bills they would like the people who represent their area to carry, and noted this is one that Senator Bengtson and he agreed to work on. He indicated it is a simple, straightforward bill, and referred the committee to page 1, line 6, noting that he thinks the title very clearly states what this is all about. He reported it is to authorize the counties to set up a jail work program for non-violent offenders to volunteer for designated work. He noted the example given to him in Yellowstone County, by the commissioners, is that they have an extraordinary number of miles of roads which have rocks bigger than the allowable size, and that this creates problems for the rural people who drive there, as far as alignment, and all kinds of problems. He indicated they would not hire the county road crew, or anybody else to do this, but that they could allow people to trade off, rather than staying in jail, by working a day off going out and throwing rocks into the barrow pit. He indicated there is a variety of things that could be done which would help with the jail management.

Representative Hannah then referred to page 1, line 15, Section 1, which allows the inmate to live at home, not have to stay in jail, and report to work every morning, and that, for every day he works, he gets a day off of his sentence, noting that is subsection 2, line 21. He further indicated that page 2, line 4, 7-32-2223, refers to labor on the public works, indicating they are talking about county projects. He stated that Section 2 allows the commissioners to set this program up, and allows the sheriff to run it because he needs to manage his own jail. He noted it allows them to work on county projects, that it makes a provision for an 8 hour work day, and for one work day to be the same as one day of sentencing. He pointed out that there was an amendment put on in the House, at the bottom of sub (1) on page 2, which seeks to clarify that they are talking about public projects. He indicated there was some concern that inmates would be asked to cut the commissioner's lawn, or whatever, and that is why that amendment was put on.



Representative Hannah stated that an important part is sub (4), which deals with the escape provisions. He indicated that, on page 3, lines 5, 6, 7, 8, provide that, if someone does not show up for work, they will be treated as an escapee, noting they tried to put some teeth in it, saying that a person needs to be committed to working off their sentence. He then indicated that new section 3, which starts on line 10, page 3 of the bill, deals with who would be eligible for the program. He pointed out that it is non-violent offenders, primarily, noting the House committee did not think it was appropriate to have somebody who was in jail for domestic abuse, or incest, to be living at home and working off their time, so they approved that as an exclusion for people that would be eligible for the program.

Representative Hannah stated he has an amendment, which he asked Lee Heiman to put together, and which is at the request of Representative Ramirez who, when the bill was on the House floor, had some concerns about the open-endedness, as far as the sheriff's control of the program. He distributed copies of the amendment, a copy of which is attached as Exhibit 13. He noted he was persuaded that Representative Ramirez was right about that concern. Representative Hannah then noted that he tried to put this together, and that the committee will have to check it because he could not make it fit. He indicated the amendment basically provides that the sheriff lay down, in cooperation with the county commissioners, an objective plan for how inmates may participate in the program. He noted this is so they don't get into a patronage program where the sheriff says he likes this inmate, and doesn't like that one, he has one job spot available, and 2 potentially qualified inmates, and will use this as a means to exercise his ultimate authority as to whether or not somebody should be in jail, or stay at home and work during the day. Representative Hannah indicated this is designed so that the sheriffs establish an objective criteria as to who can be a part of the program, and how that works. He indicated that the last section of the bill, which is new section 5, deals with codification of the escape problem, or concern. He noted it is purely optional for both the counties and the inmates, the people it will affect.

Representative Hannah reported that their county has a new jail which is already full. He indicated they have non-violent offenders who could easily be doing something else, which would allow them to put the more violent offenders in jail, and allow some of these people to work off some of their time in a way that would be more productive for the county, and for the inmates. He noted his commissioners assured him

that they are talking about jobs for which they absolutely are not going to have hired done, so there is not a competition problem. He indicated he thinks it is a great idea, and it is something that will relieve some of the tensions of budgeting and the mandatory requirements for the county prisons.

List of Testifying Proponents and What Group they Represent:

None.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Vaughn asked if this is set up strictly by the commissioners and the sheriffs and, if a judge sentences a person to jail, does the judge have anything to say about whether they get a work sentence.
- A. Representative Hannah responded no, that the authority is in the hands of the sheriff, in conjunction with the commissioners. He indicated the commissioners will set the program up, working with their sheriff, but that it is a management tool, more than anything else, to give the sheriff some flexibility on what to do with the people who are remanded to his custody. He noted they determined it would be a problem for the court to directly sentence inmates to the work program, that they would be able to circumvent a lot of the protections which are in the bill regarding who may or may not participate.
- Q. Senator Bengtson asked if there are models; if there any other counties in the state that do this.
- A. Representative Hannah responded no, that this is setting up the law to allow the counties to do this, if they wish.
- Q. Senator Bengtson indicated this would dictate that the sheriff and the commissioners develop the plan, which will outline the types of people, like DUIs, who have to put in a day in jail, or whatever criteria that would be used.

- A. Representative Hannah responded that is right, noting the bill has structured in it restrictions as to who may not be, and noting it is designed to be non-violent offenders. He indicated there are some people who are waiting to serve time and that, as soon as a cell comes open, they go and get them.
- Q. Senator Hofman indicated these people do not have to stay in the jail, that they may live at home, but asked, if they don't have a home, would they stay in the jail.
- A. Representative Hannah responded those are some of the questions which are not specifically detailed in the bill. He indicated the bill simply says they can live at home, wherever home might be. He noted that, if they don't have a home, he would assume the sheriff and commissioners would have to figure out how they are going to address that when they do, in fact, get a particular individual. He indicated that is why he said some of the criteria needs to be outlined, through the language in the amendments, to allow the sheriff to do that. He pointed out that the vast majority of people have someplace they call home, and this provides that, rather than stay in jail for their 20 day or 10 day sentence, they can stay at home, and do the county work program during the day, which allows those people to stay in contact with their families, allows them to stay out of jail, and work off their sentence. He stated he thinks it is a good idea.
- Q. Senator Bengtson indicated she is thinking of, for instance, the DUIs. She noted that all of us have had people in our communities who have had their families disrupted by this punishment, and this would allow them to stay at home and do the work. She pointed out that they are non-violent, and we're getting more of them all the time.
- A. Representative Hannah responded absolutely.
- Q. Senator Hofman said it would seem to him that they could run into a problem. He indicated if someone did something wrong, DUI or whatever, and has a job, he should be making a living, but he is on a work program and is not getting paid for it. He asked Representative Hannah if they do not also have a program whereby an offender could be incarcerated at night, and go out during the day to work his regular job.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 20 of 51

- A. Representative Hannah said this would not interfere with that in any way. He indicated that, if a person is going to be sentenced to jail for 20 days, on a consecutive day basis, that person is not going to be able to go to work, anyway, so he is not going to be able to do his regular job, if he has been sentenced. He indicated the question is where does he serve his sentence, noting this bill tries to say they think it would be more productive for that person, and the management of the jail, if they had the option to get out of jail, spend their nights at home, with their families, and work out their sentence.
- Q. Senator Harding indicated she thinks Representative Hannah said this is an option, noting that there are several methods, now, one of which is when a non-dangerous offender can live at home and work, but they wear a monitor. She pointed out that this is just another option for a different type of inmate.
- A. Representative Hannah responded that is correct. He stated that most of the options Senator Harding is referring to are judicial options where the judge can choose the sentence for the individual, whether it be weekends in jail, or the monitor program, or a variety of things. He indicated that, in this program, if the judge chooses to remand an inmate to the county jail, the sheriff has to deal that inmate. He pointed out there may be numerous outstanding warrants, and he does not have room to put them in jail, that there may be a murder case that comes up, which takes a slot, and those warrants keep hanging out there. He indicated it will help, on some of those warrants on non-violent offenders, who may be on the street, when they do come forward, and it is time for them to serve their sentence, if he has another alternative, as far as management of his jail, where he can keep more serious offenders incarcerated, and allow these people on the warrants to go out and work off their time.

Chairman Farrell announced the hearing on HB264 as closed.

DISPOSITION OF HB 264

Discussion:

Chairman Farrell indicated there is a proposed amendment to HB264, and asked Ms. McClure if it fits in, or not. Ms.

McClure responded it fits in, that Representative Hannah has the second reading copy, and the amendment fits with the third reading copy. Senator Harding offered a motion that the amendment to HB264 be adopted.

Senator Harding offered a motion that HB264 be concurred in as amended.

Amendments and Votes:

Motion passed by the committee that the amendment to HB264 be adopted.

Recommendation and Vote:

Motion passed by the committee that HB264 be concurred in as amended.

HEARING ON HB 267

Presentation and Opening Statement by Sponsor:

Representative Tom Kilpatrick's written testimony is attached as Exhibit 14.

List of Testifying Proponents and What Group they Represent:

Margaret S. Davis, League of Women Voters of Montana  
Terri L. McBride, Montana Common Cause  
Russ Brown, Montana Democratic Party

Testimony:

Ms. Davis's written testimony is attached as Exhibit 15.

Testimony:

Ms. McBride stated that, in their opinion, HB267 is a needed reform. She indicated it is consistent with good campaign laws, and they urge a do pass.

Testimony:

Mr. Brown stated they have absolutely no problem with HB267, and urged the committee's support.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked Delores Colburg if, during the campaign, she finds that these abuses are growing, and if there is a problem with people not disclosing their political party affiliation.
- A. Ms. Colburg responded that she does not know how much of a problem it is, that she obviously can not review every piece of campaign literature, and added that some come to her attention, but many do not. She indicated she did receive some inquiries and telephone calls asking whether it was right that someone had not shown their party affiliation in campaign materials. She noted that she can not remember how many there were, but there were probably a half dozen inquiries asking if it is a violation, if the party affiliation is missing. Ms. Colburg indicated that, under current law, it is not a violation.
- Q. Senator Bengtson indicated they would have no way of really checking whether it is, but asked how would this be enforced.
- A. Ms. Colburg responded the enforcement would come about, in large part, in the same way that enforcement comes about with a number of other things that are in law. She reported that the people of Montana are amazingly alert to our election procedures, noting the committee can not believe the number of phone calls and letters, and other kinds of inquiries, she receives in her office. She stated she thinks we can be proud of the fact that Montanans take their elections seriously, that Montanans keep themselves well-informed, and are students in the political process. She indicated they, in combination, with the press, are our best resource in terms of knowing what is happening out there in political campaigns.
- Q. Senator Harding indicated she has no problem with this bill, but reported that, when she first campaigned, they painted their own signs, pointing out that the word Republican is awfully long. She indicated she got worried about what she was doing, that she called the campaign finance office, and asked, if she put one of her bumper stickers, with her party affiliation, on the sign,

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 23 of 51

would that be alright, noting that they advised her it would. Senator Harding indicated that, when you do your own signs, and do your own painting, that can not only be a messy job, but is very time consuming. She further indicated she thinks that, maybe, people did like she did, because it is just easier to put your name and the office. She added that, as they painted more signs, she did not even put the district on it. Senator Harding again stated that she has no problem with it, but she wonders if it isn't so much avoiding what party they belong to, as maybe a convenience of just putting a name and the office.

Chairman Farrell asked Senator Harding if she is asking a question.

Senator Harding indicated she is wondering about the penalty, as Senator Bengtson as mentioned, and she thinks Ms. Colburg should answer that there is not a great deal of penalty.

- A. Ms. Colburg responded that, in looking at the rest of the statute that Representative Kilpatrick desires to amend, there are ways of correcting inadvertent omissions, and indicated she would have to check to see what the penalty would be if it was willful, deliberate and with intent, and whether it is a civil offense.

Ms. Colburg then responded to Senator Harding's situation, and indicated that, in terms of length of the name Republican and Democrat, the symbols are universally recognized; the elephant for the Republicans, and the donkey for the Democrats, and noted that some people thought that was a way of solving it.

Senator Rapp-Svrcek stated they can always change parties. Senator Harding responded that Democrat is almost as bad.

Senator Abrams asked, in talking about identifying political materials, what about the logo.

Senator Harding responded that is what Ms. Colburg was referring to, adding that she did not learn that, until the last time.

- Q. Senator Hofman indicated he is sure that, when this law went into effect, it included the things that had to be included on campaign material, and he is also sure they referred to party affiliation, and that it was excluded

at that time. He asked Ms. Colburg if she knows anything about that, and what the reasons were behind not including it.

- A. Ms. Colburg responded that she has looked at some of the history of the campaign finance and practice laws which were, essentially, enacted in 1975, but indicated she can not remember looking at the history of that particular section, and does not know whether it was an issue at that time, or not, adding that she has no idea whether it was even debated.
- Q. Senator Bengtson asked Representative Kilpatrick what, in his mind, is the history of this bill, and if it is something he thought was an abuse of our campaign laws. She further asked if he thinks it will generate more interest, and what does he think is going to be the end result, if the process is going to be clean, and there will be more participation. Senator Bengtson then asked Representative Kilpatrick why he would bring this before the committee.
- A. Representative Kilpatrick responded that, for some reason, politicians are a bunch of crooks, according to the common people around, and that they say, "Those damn crooks out there, what are they trying to do, feather their pocket.", and what have you. He indicated that, in his way of thinking, it is dishonest, because you are not telling anything. He pointed out that Senator Farrell is chairman of this committee because he is a Republican, and there is a Republican majority. Representative Kilpatrick stated that he thinks it is time to realize that your political affiliation is part of your whole philosophy. He reported that, during the campaign, his opponent did not have the political party on some of the material, and he felt it was unfair, and dishonest. He indicated that, when the opportunity arose for him to present this bill, he thought it was a chance to get a little bit of good government, and a little bit of honesty.
- Q. Senator Bengtson indicated that, certainly, power is distributed because of the political party structure, but noted that she does not think the people in her district know whether Bill Farrell is a Democrat or a Republican, as far as what goes on in Helena.
- A. Representative Kilpatrick responded that he knows, but that he thinks, if they knew what was going on in Helena,



SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 25 of 51

they should know. He stated he thinks it is an important item to know, that it is just part of it, noting they are required, in their disclaimer, to state who pays for it, and that he thinks this is another fair item.

Closing by Sponsor:

Representative Kilpatrick indicated he believes everything has been said, adding that it is just honesty in government.

DISPOSITION OF HB 267

Discussion:

Senator Vaughn offered a motion that HB267 be concurred in. Senator Hofman stated he is not going to vote for it. Chairman Farrell indicated he does not like this bill, and is against it. He stated he thinks people should look at the candidate, instead of the party, and that people will look for an elephant or a mule, and not listen to the candidates. Senator Bengtson stated the public does not really care about the political parties, they could care less who it is, that they expect us to get up and do the right thing. Chairman Farrell agreed.

Recommendation and Vote:

Motion passed that HB267 be not concurred in, with Senators Hofman, Harding, Rasmussen, Anderson, Abrams and Farrell in favor, and Senators Rapp-Svrcek, Bengtson and Vaughn opposed.

HEARING ON HB 336

Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll reported that HB336 prohibits discrimination in housing for families with children, except if the housing is intended for senior citizen use, noting that is on page 4. He indicated this provision is in the federal laws, now, and the department has an agreement with the federal government to handle some of the cases, when there is a law that they can do it, adding that it holds down duplication in the complaints. He stated that some people may be concerned about noisy children, but pointed out they can refuse to rent to people, now, if it is based upon reasonable grounds, which can be established by getting references from

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 26 of 51

where they rented in the past, and whether or not that landowner said they destroyed the property, or were noisy, and people complained. He indicated that, through references, if the person did not have a history, and other landowners, or people that rented apartments, said they were good renters, a person could not discriminate, and not rent to them, just because they had kids.

List of Testifying Proponents and What Group they Represent:

Anne MacIntyre, Administrator, Human Rights Division,  
Department of Labor and Industry  
Nancy Griffin, Montana Women's Lobbyist Fund  
John Ortwein, Montana Catholic Conference  
Virginia Jellison, Montana Low Income Coalition  
Yvonne Darcy, Gallatin County-Bozeman Housing Coalition  
JoAnne Thun, Bozeman Housing Coalition  
Marcia Youngman, representing herself

Testimony:

Ms. MacIntyre reported this bill was introduced at their request, and she is here to speak in favor of it. She indicated the purpose of HB336 is to make it clear that, under the Montana Human Rights Act, it is illegal for housing providers to discriminate against families with children. She stated it is an important bill, for several reasons, and the primary reason the Department and the Human Rights Commission are seeking this amendment is because the U.S. Congress enacted a similar law, which goes into effect the day after tomorrow. She reported that, in order to maintain their workshare agreement with the U.S. Department of Housing and Urban Development, it is important that the state law be in conformity with the federal law, adding that this bill would make sure that Montana's statute conforms to the federal law.

Ms. MacIntyre reported that this bill will add two new subsections, subsections 4 and 5, to the existing section 49-2-305, which specifies that discrimination against persons on the basis of familial status is illegal, adding that the term familial status is inserted into the other provisions, subsections 1(a), (b) and (d) of the existing 49-2-305. She pointed out that the bill contains an explicit exception for three types of housing for senior citizens. The first is housing which is provided under any state or federal programs, and is specifically designed and operated to assist elderly persons; the second is housing communities consisting of housing units intended for, and occupied by, persons 62 years of age, or older, only. The third is housing communities

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 27 of 51

consisting of housing units intended for, and occupied by, at least one person 55 years of age or older in 80% of the units, when those units provide significant facilities and services specifically designed to be applicable to the physical or social needs of older persons. Ms. MacIntyre stated these exceptions mirror those contained in the federal fair housing amendments act of 1988, and that, in fact, when the bill was considered in the House Judiciary Committee, it was amended so that those were incorporated by reference, rather than specifically spelled out in the statute. Ms. MacIntyre distributed copies of the relevant section of the new federal law, and the federal regulations which have been adopted to implement this law, copies of which are attached as Exhibits 16 and 17, respectively. She noted the rules have been incorporated by reference, as well. Ms. MacIntyre indicated she would be happy to provide any member of the committee or staff a complete copy of the act, upon request.

Ms. MacIntyre indicated she thinks that, in addition to compliance and conformity with the federal law, there are good policy reasons to enact this change in the law. She pointed out that, based upon the Montana Constitution, it should be the policy of the state to insure that families with children are not denied housing, noting that Article 2, Section 15, of the Montana Constitution, provides that minors are entitled to the same rights as adults, and that such is specifically concluded by laws designed to enhance the protection of children. She indicated this constitutional provision sets clear policy guidance to the Legislature to take action which will enhance the protection of children.

Ms. MacIntyre reported that discrimination against families with children is a problem in Montana, noting that numerous ads appear in the for-rent sections of classified advertising which say no children. She referred to a recent survey by the Office of Public Instruction, which she distributed to the committee members, a copy of which is attached as Exhibit 18, which identified 16,033 homeless children in Montana, and which estimated that there are another 1,000 homeless children, presently, in the state. She stated that she believes discrimination is one of a number of factors which contribute to the existence of homeless children in our state, adding that she thinks it is important the committee consider that.

Ms. MacIntyre indicated she would like to touch briefly on the effect of the language on page 4, lines 11-13, which incorporates, by reference, some provisions of federal law. She indicated there are, essentially, five effects of that language. She noted that, with respect to housing for at least one person age 55 years of age, or older, per unit, the

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 28 of 51

language requires the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, which is defined in the rules she distributed to the committee. She indicated the types of facilities are spelled out in the rules, and include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, home-maker, outside maintenance and referral services, accessible physical environment conversions, preventative health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available for them. She pointed out the facilities, as outlined in these rules, need not have all of the features to qualify for these exception, but those are the types of facilities and services that they are talking about. Ms. MacIntyre indicated the second thing the language does is provide an exception to the requirement of significant facilities and services if it is not practical to provide them, and if the housing is necessary to provide important housing opportunities for older persons, noting the rule specifically addresses how that determination is made. She indicated that, third, it requires that 80% of the units be occupied by at least one person 55 years of age, or older, per unit and, fourth, it requires that the owner or manager publish it, and adhere to policies and procedures which demonstrate an intent to provide housing for persons 55 years of age, or older. She reported that, finally, it incorporates a grandfather clause for housing for older persons which did not meet the requirements on the day the federal law went into effect, but, subsequently, changed to be housing for older persons.

Ms. MacIntyre stated she thinks there are a number of good reasons to support this bill, as she has outlined, and indicated she hopes the committee will recommend that HB336 be concurred in.

Testimony:

Ms. Griffin's written testimony is attached as Exhibit 19. She quoted various rental housing ads in the Great Falls Tribune, which specifically exclude children, noting there were about 7 of them. She stated she gets tired of people who treat children as second class citizens, assuming the worst, before they know the best.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 29 of 51

Testimony:

Mr. Ortwein reported that, while presenting testimony before both the Republican and Democratic platform committees, the United States Catholic Conference presented testimony concerning housing for families which said, simply, that housing is not just a commodity but, indeed, it is a basic human right. He indicated that public policy should combat discrimination in housing based on race, sex, disability, or families with children, and that he would certainly hope this committee would concur in passing HB336 to insure adequate housing for children.

Testimony:

Ms. Jellison reported that the Montana Low Income Coalition is a member-based organization representing people who are concerned about social justice and equity issues. She indicated they are made up of senior citizens, welfare families, low-income workers, minority groups, and people concerned about them. Ms. Jellison stated that HB336 is a reaffirmation of one of the basic principles of democracy, that everyone has equal opportunity to housing without the threat of discrimination. She indicated it is widely accepted that it is wrong to discriminate based upon one's color, faith, sex, etc., but that discrimination of families with children has been a common practice in the past. She reported that the Montana Low Income Coalition believes it is unfair and unconscionable to allow this blatant violation of human rights to continue.

Ms. Jellison stated that landlords have legal recourse to protect themselves from noisy, disruptive, or damaging tenants, whether they have children, or not, adding that tenants are expected to follow their leases, and state law, and not disturb their neighbor's peace. She indicated that, if a family with children abides by this, and is a responsible tenant in every way, there is no acceptable argument against renting to that family, and added that, if that family isn't responsible, the landlord can evict them. She reported they agree that the only exception is in the case of elderly housing, where housing projects are designed specifically for senior citizens.

Ms. Jellison reported that she has an 8+ year history in both the administration and management of housing and that, in the last position she held, she ran the management position for St. Paul Public Housing Agency, which has 4,300 units, 2,700 of which were elderly housing. She indicated they did not let

families with children in the elderly housing, adding there is a good reason for that, that she understands that, and they recognize that need. She noted that, however, it is not reasonable to bar children, families with children, from housing that is not designed for elderly people, and they urge this committee to give a do pass to HB336.

Testimony:

Ms. Darcy reported that she is a college graduate, and a single mother on AFDC. She indicated this bill would really help her, because she is supporting a child, and indicated that her testimony would be a lot more personal. She reported she graduated from college, and that it took her 7 weeks to find a tiny apartment. She indicated that half the ads in the paper said no children and, of the half that did not, and she called, they said not to even come by, because she has a 5 year old daughter. She indicated she lives on a busy street, noting it was an issue that they want to keep children out of areas like that, and added that she agrees. She indicated the problem was that she had to get what she could, within her income, which is very limited.

Ms. Darcy stated that another issue is that Bozeman is a college town, and there is a glut of housing. She noted that people think that, because it is a college town, of course it will be harder for someone with a child, because housing is tight. She indicated there is a glut but, even with that glut, it took 7 weeks, and she was scared, because she does not want to ever be homeless, and does not want her child to be. She indicated that, if she were single, and on her income, she could have found a place right away, but she is more limited as to where she can live, and asked who wants to live with someone with a small child. She indicated she does not want to live in a house with a lot of college students, because her daughter has to be in bed at 8:30, and it has to be quiet.

Ms. Darcy indicated this is kind of philosophical, that, in our society, the ideals are pursuit of happiness, and liberty, and teaching your child that, so she'll get a college education, but added that it is hard for her to tell her that, when she is so stressed out about the bare basics, and housing is a bare necessity. She reported that she begged her landlord to let her in there. She further reported that she asked a neighbor, who lives upstairs in the middle, a professor of french at the university, if they were too loud, and the neighbor responded no, that, as a matter of fact, she never hears them. She indicated the neighbor further said, regard-

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 31 of 51

ing the people who used to live in that apartment, a married couple, who is now on the top floor, that now she bangs on the ceiling to get them to turn their top 40 music down. Ms. Darcy stated that she thinks we have a moral responsibility to protect our children, because they can't protect themselves.

Testimony:

Ms. Thun stated that she wants to add that, in Bozeman alone, there are 700 dwellings, apartment buildings, that do not allow children, noting that is a lot in that little area. She reported that it takes about 2 1/2 years to get in subsidized apartments, and 5 1/2 years to get in houses that are subsidized, which is a long waiting list. She indicated there are a lot mothers with children who really need places to live. She further stated that, if the place is not safe for children, it is not safe for adults. Ms. Thun stated that, as a parent, you are responsible for your children, and are responsible to take care of them, that there can be dangerous places in any apartment or house.

Testimony:

Ms. Youngman testified she is one of the founders of the Bozeman Housing Coalition, over a decade ago, that she has moved on to work on other issues, but wanted to share a couple of more ideas, because of the history she has with the issue. She reported that one of the things they found is that available, affordable housing for families is not market responsive. She stated she thinks many people assume that, when the housing market is tight, that is when it is hardest for families to find housing for themselves and their children. She reported they found that is not the case, at all. Ms. Youngman stated that, at the time she was first working on this issue, housing was very tight in Bozeman, and it was tight for everybody. She indicated it is quite loose now, but it is still not possible to find housing for children. She noted that, in other communities, Butte for instance, when they first started working on this, there was a tremendous variety of available housing but, even there, families were not able to find housing that accepted children and, in a community that, at that time, had the most available housing, it still wasn't possible. She further indicated that, in every major community in the state, from the time they started looking at this, until now, they have found that same situation. She reported that a single parent recently moved to Bozeman from the Flathead Valley, and said it is tremendously difficult to find housing for families in that area, as well.

She indicated it seems that, whether it's a small community or a large one, in Montana, it is a very difficult situation.

Ms. Youngman indicated that, when they checked with landlords, they found it is generally not for legitimate safety concerns, that it is very often just a matter of preference, noting it would be wonderful if every landlord could just choose to have older single adults, if that is what they preferred but, when that means that there is no housing at all, for families, that is the time when public housing is necessary to protect those families and those children.

List of Testifying Opponents and What Group They Represent:

Walter F. Jackovich, representing himself

Testimony:

Mr. Jackovich stated he does not condone discrimination, and that what he was just hearing, that there is a lot of housing in Butte, Montana, is a fallacy. He indicated he can support that, because he manages a 160 apartment complex that is multi-family, adding that it is not the children issue that he is against, in itself. He reported he has a lot of families with a lot of children, and that his opposition to this particular bill is the fact that it should not be mandatory discrimination, just because somebody does not want to rent to people with children. He stated it should not be automatic that a person should have to rent to a person with children. He indicated that individuals who are working hard, and trying to get ahead in building our communities throughout the state, should have a right to choose who they have as a tenant. He stated that putting this discrimination bill into effect will not enhance housing in the State of Montana, that it will not make safer places for people to live, with or without children. He indicated there are a lot more incentives which are more conducive to better housing than penalizing people because they opt to choose one person over another, or one family over another, adding that he does not feel people in the United States should be subjected to more and more regulations against their endeavors to not only further their own positions in life, but also to help other people. Mr. Jackovich stated that he opposes it on that ground, alone, not because of discrimination.

Questions From Committee Members:

Q. Senator Rapp-Svrcek asked Ms. Jellison, if there is a good reason for barring children from housing, where



SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 33 of 51

people are 55 or 60 years of age, or older, why isn't there a good reason for barring children from housing where there are people that 50.

- A. Ms. Jellison responded because, when people are older, it is assumed they require quiet, and more services specifically for their own needs, that people of a younger age do not. She indicated the 55 years or older is, she understands, in compliance with the federal regulations, which is one reason. Ms. Jellison indicated the other reason is that, sometimes, it is good to have a mix of people. She reported that, in Missoula, she was on the Board of Directors of a project that had a mix of both elderly and family housing and that, sometimes, that is good, because it is good for the children to be around people who are a little bit older. She noted that project was designed that way specifically, but they are talking about housing that is not designed specifically for elderly people but is, maybe, 2 bedroom or 3 bedroom, and the people who own it prefer to have adults rather than children, because children demand particular attention or services that they do not want to provide.
- Q. Senator Bengtson noted this applies to private housing, and asked Ms. Jellison if they consider public housing, which is subsidized by the federal government, or Montana, and private people different.
- A. Ms. Jellison responded that she believes this refers mainly to private housing, noting that she would refer that to Anne MacIntyre. She indicated that HUD has its own regulations, and they determine the family who can go into the unit by the unit size, bedroom size, and added that they also allow a housing authority to not put families in elderly housing.
- Q. Senator Bengtson asked, regarding penalties, if the federal government imposes penalties with public housing that would also be applicable to private housing.
- A. Ms. MacIntyre asked Senator Bengtson if she is asking about the penalties.
- Q. Senator Bengtson asked if there is a penalty for not complying with the federal law, as far as discrimination is concerned, and if, by putting this policy into Montana statute, as it deals with private housing, will those same penalties apply.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 34 of 51

- A. Ms. MacIntyre responded there is a penalty in the federal law, that she does not remember precisely what the new penalty provisions are, but she could get that information for Senator Bengtson. She stated that adoption of HB336 would not bring the same penalty provisions into Montana law that are in effect in federal law.
- Q. Senator Bengtson asked if there is a penalty in this law.
- A. Ms. MacIntyre responded that this law provides that people, who believe they have been discriminated against, can file a complaint with the Human Rights Commission. She indicated that, if the commission finds that the complaint is valid, relief can be ordered to correct the discriminatory practice, and to compensate the person for any damage suffered as a result of discrimination. She stated there are no punitive damages, that it provides only for compensatory relief.
- Q. Chairman Farrell asked if this law would bring us into conformity with the federal law that is about to go into effect. He further asked, if this is not done, can the State of Montana lose some monies, or federal grants.
- A. Ms. MacIntyre responded yes, that this bill would conform Montana's discrimination laws to the federal laws regarding this issue. She reported they have 40 months, from when this law went into effect, for the state law to be brought into conformity with the federal law and, if it is not, they lose their ability, as an agency, to contract with HUD. She indicated this would mean their agency would lose the contract dollars, and any other grants they might be able to receive from HUD. She noted that, in addition, not only would they not be able to contract with HUD in this area, but also in other areas they enforce, like race discrimination and sex discrimination, so that there would be potential for duplicative enforcement. She reported that their arrangement with HUD, at this time, is, if a complaint is filed with them, and with HUD, only one agency will process that complaint and try to resolve. She stated that, if they lose their ability to contract with HUD, and the two complaints are filed, the landlord will have to deal with both the state agency, and the federal agency on the same issue, which poses duplications for that person.
- Q. Chairman Farrell asked if there is anything in this bill which is different from the federal law.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 35 of 51

- A. Ms. MacIntyre responded there is. She indicated one area in which there is a difference is that the federal law does not apply to single family houses being sold or rented by an owner, noting it is complex because there are a number of exceptions to that rule. She indicated the rule only applies to a private individual owner who does not have more than 3 houses at one time, and does not sell or rent a house more than once in a 24 month period, and the owner can not use a real estate agent, or other agent. She indicated that, even though it does not apply to a single family house in those situations, it would apply if any of these other factors are present. She then indicated the federal law also contains an exception for 4-plexes, or smaller, if the owner actually maintains or occupies one of the units as his residence. She reported that, when the Montana Legislature enacted 49-2-305, in 1974, it was intentionally made broader than the federal law, and does apply to the 4-plex situation where the landlord lives in it. She noted the only exception in the state law is for someone who is renting out rooms in his own home.
- Q. Senator Bengtson asked Ms. MacIntyre if there is a backlog of cases before the Human Rights Commission and, if this law should pass, what does she anticipate as complaints that would come before the commission.
- A. Ms. MacIntyre responded that she is not sure she would say they have a backlog. She reported that, at the end of last fiscal year, they had 280 open cases with the Commission, adding that about 300 cases a year are filed. She indicated they are processing somewhere between 280 and 300 cases a year, and she is not sure she would anticipate any real significant increase in the number of filings, noting that is partly because they are already receiving complaints on this issue from people who are arguing the age provisions of the statute. She indicated there has never been a court's interpretation on whether the age provisions do, in fact, cover it.
- Q. Senator Bengtson asked Ms. Darcy what would be her next step, if this law should pass, noting she testified they have, in Bozeman, 700 apartment houses that discriminate against children.
- A. Ms. Darcy responded she would like it to be that people should not advertise in the newspaper that they do not allow children, that she would like to see that.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 36 of 51

- Q. Senator Bengtson asked Ms. Darcy if, on behalf of the people she works with, she would file a complaint with the Human Rights Commission.
- A. Ms. Darcy responded she did not know, that she has not discussed that with her people.
- Q. Senator Rasmussen asked Mr. Jackovich if he has ever been in a position where he wanted to not allow a mother or family with children to rent from him, and has he ever gone through the process. Senator Rasmussen noted that there is a procedure where he can talk about the references.
- A. Mr. Jackovich responded there are many methods of not renting to people without creating discriminatory practices. He reported he has been managing the property for 16 years, that there are 160 units which are multi-family, and he has one, two, three and four bedrooms units. He indicated he has quite a few children, and families, and some elderly people, noting they have a mix of population. He reported there are many instances when he would not want to rent to people who have children, by past experiences, and by the way the people are, themselves.
- Q. Senator Rasmussen asked Mr. Jackovich if he has the tools to do that, if he feels they will tear his apartment apart.
- A. Mr. Jackovich responded he can, by method of management. He indicated the problem is with single-family dwellings, with people who are not in the rental business, noting that, in Butte, for instance, there are a lot of elderly people who have one or two homes.
- Q. Senator Rasmussen asked Mr. Jackovich how he does it, if he asks for references.
- A. Mr. Jackovich responded yes, that you only go through application, and check out their references, both criminal and non-criminal.
- Q. Senator Rasmussen asked Mr. Jackovich if he feels, even with the law, if there is a legitimate reason not to rent to somebody, he could screen them.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 37 of 51

- A. Mr. Jackovich responded he can, because he has been in the business a long time. He indicated the average person, unfortunately, is not well versed on the law, as it stands today, and that they do not go to the law until they have a problem. He reported that the rental industry is not organized, like a lot of industries, noting that the tenants are organized, but the landlords are not. He indicated there is an organization of landlords, but they do not have the same educational organization.
- Q. Senator Rasmussen indicated maybe they would need to stop looking.
- A. Mr. Jackovich responded that is a definite position, but indicated, as he said earlier, discrimination is not going to provide better housing, or more housing. He stated that Senator Rasmussen is right, that there are ways to not let people in your property.
- Q. Senator Vaughn indicated some of her constituents, who have places to rent, have expressed some concern. She indicated they may have a creek going through their place, or are on a busy street, and do not feel comfortable renting to people with children. She asked Ms. MacIntyre if they would be excluded, under this law.
- A. Ms. MacIntyre responded the statute does have a reasonable grounds exception. She indicated that, unless there are reasonable grounds, it is illegal to discriminate on the basis of familial status, noting she thinks there are situations when safety concerns can constitute reasonable grounds. She indicated that, off the top of her head, she could not say whether those specific concerns would constitute reasonable grounds, noting she has had people throw a lot of examples at her which tend to be risks, or potential safety problems which are inherent in every day society. She stated she would think, if it poses a safety problem for everybody, it probably would not constitute reasonable grounds but that, if they are safety problems inherent to renting to children, she thinks it would constitute reasonable grounds.

Closing by Sponsor:

Representative Driscoll stated he thinks the people are seeing boogie men in this bill. He pointed out that, on page 2, Section 1 states that, except when based upon reasonable grounds, you can not discriminate. He indicated the present

law prohibits discrimination based sex, race, creed, religion, color, age, physical or mental handicap, or national origin, and all this bill does is say you can not discriminate against children. He indicated that, if children are less important than the other things on the list, maybe we should repeal the law.

Chairman Farrell announced the hearing on HB336 as closed.

#### DISPOSITION OF HB 336

##### Discussion:

Senator Rasmussen offered a motion that HB336 be concurred in. Chairman Farrell indicated he is a little concerned, noting that maybe the attorneys should have worked with this. Senator Rasmussen asked if there is any discussion on it. Chairman Farrell stated he thought they had to do this, and he still thinks they do, noting that Ms. MacIntyre was here because of the concern about losing the HUD contracts. Senator Bengtson indicated that, if that is true, they will lose their ability to contract with HUD, which is the public housing. Chairman Farrell responded no, not necessarily, that HUD housing is not all public housing. He indicated there are some private dwellings, that HUD purchased about 30 houses in Missoula, and resold or rented those houses to low income families. Senator Bengtson asked if it has anything to do with the housing authority bonding, that they issue the bonds and make more money available.

Ms. MacIntyre indicated the federal fair housing act, which is what HUD administers relative to discrimination in housing, applies to both private and public housing, and the state laws also apply to both private and public housing. Chairman Farrell asked Ms. MacIntyre if this bill is broader than the federal law. Ms. MacIntyre responded it is slightly broader. Chairman Farrell asked Ms. MacIntyre to explain how. Ms. MacIntyre responded that, very generally, the federal law does not apply to landlords who have fewer than 4 units, but noted that is not exactly an accurate characterization. She indicated the law actually says that it does not apply to single family houses, if the owner does not use a realtor, and if the owner does not have more than three units, and if the owner does not sell or rent more than once in a 24 month period. She added that is one side of the federal exception, that it applies to single family houses that do not have all those other factors. Chairman Farrell asked Ms. MacIntyre if, on this bill, they would be included. Ms. MacIntyre

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 39 of 51

responded yes, they would. She indicated the other side of the federal exception is for a 4-plex, or smaller, if the landlord lives in one of the units, noting that exception is not in the state law, either.

Senator Rapp-Svrcek asked Ms. MacIntyre if that is not in this bill, either, if they are not addressing that. Ms. MacIntyre responded that is correct, they are not addressing that at all. Chairman Farrell asked if the original bill was passed in 1974, and Ms. MacIntyre responded yes, 1974. She indicated the federal law was passed in 1968, originally, to prohibit discrimination on the basis of race, sex, color, national origin and religion, in housing, and that these amendments, which add family status and handicapped, came in through an act in 1988, to go into effect March 12th.

Senator Rasmussen indicated he would think they might want to look at amending in the federal provisions, which were just mentioned, and stated he thinks that may be a reasonable thing to do to this bill. Chairman Farrell asked Ms. MacIntyre, when they drafted this bill, which is by request of the Department of Labor, if she worked on this bill, and did they look at making it mirror the federal law. Ms. MacIntyre asked Chairman Farrell if he meant the federal exceptions. Chairman Farrell responded yes, and Ms. MacIntyre indicated she did not, that it was her sense, when the legislature enacted this law in 1974, they wanted the broader coverage. She noted that state civil rights laws can be broader than federal civil rights laws, but can not be more restrictive, and she felt that, when the legislature enacted this law, they were trying to implement provisions of the Montana Constitution, which are broader on the state level than on the federal level, and it was an intentional decision, at that time, to make the law apply to the smaller landlords. She noted there are a lot of small landlords in Montana.

Chairman Farrell asked Ms. MacIntyre, if they try to mirror it to the federal law, would there be constitutional problems. Ms. MacIntyre responded that, in the areas of sex discrimination and, particularly, race discrimination, she does think there is a constitutional problem with a landlord refusing to rent to someone. She indicated that, if they amend the statute so that it permits small landlords to discriminate on the basis of race, she thinks there would be a constitutional problem.

Senator Harding indicated it makes her furious, when she sees the advertisements that say no children, and indicated that, if it were her, she would rent to families, noting she thinks

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 40 of 51

they are more of a total source than the elderly. Senator Harding noted that, however, they are putting in place a law on private people, and she thinks they are taking away a right. She further indicated, regardless of how she feels about the fact that they should rent to families, she thinks it is a right they would be taking away from private landlords.

Senator Vaughn indicated a lot of small landlords are very concerned about this, because of the problems they have, and the laws imposed on them, which hampers what they do with their own property. Senator Bengtson stated that no one wants to discriminate against children, but indicated, in talking to the school officials, there are problems with children in single parent homes, with their home life, and she can see why a private owner of a rental would have the same kinds of problems. She added that it is a societal problem, and that some of it has been brought on for reasons they can not deal with, with this bill. Senator Bengtson indicated that she is sure the young lady from Bozeman is a wonderful mother, but indicated, then you talk to people who deal with those wonderful mothers, and those wonderful children, in the school situation, and they can't get a handle on what to do.

Senator Rapp-Svrcek asked Ms. MacIntyre to tell the committee, again, what they stand to lose if this legislation fails to pass. Ms. MacIntyre responded that they would lose their ability to enforce this law on the state level, instead of on the federal level. She indicated that is not only this particular provision, but all of the housing discrimination laws, and that, if people have complaints about housing discrimination, they can either file them with HUD, or with both the commission and HUD, that there will not be any state involvement in fair housing enforcement and, as a result, they will lose the funds they get from the Department of Housing and Urban Development for the worksharing agreement, which allows them to have enforcement on the state level. Senator Harding asked how much that is. Ms. MacIntyre responded that, in the last fiscal year, they received about \$100,000 from HUD, noting that is not a huge amount of money, but was a quarter of their budget.

Senator Rasmussen indicated he thinks it would be well to put the federal exemptions in, which would handle the concerns of those who are concerned about the small renter, and added that, if it meets the United States Constitution, it seems to him it should be okay, and would be a reasonable way to proceed. Senator Rasmussen offered a motion that HB336 be amended to include the federal exemptions. He noted that



SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 41 of 51

perhaps Ms. McClure could work with Ms. MacIntyre on the proper language.

Senator Anderson pointed out that Ms. MacIntyre indicated it is in conformity with the state constitution. Ms. MacIntyre responded that is correct. Senator Anderson asked Ms. MacIntyre how Senator Rasmussen's amendment would affect it. Senator Rasmussen indicated it seems to him that it meets the federal constitution, which should be okay. Senator Anderson indicated as far as HUD is concerned. Chairman Farrell asked Ms. MacIntyre, if they do that, how many landlords will be exempt, and asked if that would completely wipe this bill out. Ms. MacIntyre responded that she does not know how many landlords there are in Montana, but could do some checking.

Senator Rapp-Svrcek indicated he is a little concerned about the statement that, if we are in compliance with the federal constitution, we should be alright. He indicated his understanding of the state constitution is that it is broader, in many areas, than the federal constitution. He asked Ms. MacIntyre if she would see that we may run afoul of the state constitution by adopting the federal exemptions. Ms. MacIntyre responded yes, noting her concern is not so much in the area of families with children, as it is for race discrimination, which is also covered in this section of the statute, and sex discrimination. Senator Rapp-Svrcek asked Ms. MacIntyre, if we allow the federal exemptions, specifically regarding families with children, would that allay the concerns regarding the Montana constitution. Ms. MacIntyre responded she thinks that it would, but noted it is something that would bear looking at. Senator Rasmussen indicated he is confused as to how this bill only relates to family status, and asked if he is missing something. Senator Rapp-Svrcek responded that, if the federal exemptions are amended in, the exemptions would apply to everything in the law, unless they say the exemptions specifically apply to families with children. Senator Rasmussen indicated that was his intent, that his point was to relate just to the language related to families.

There was general discussion regarding whether this bill should be in Judiciary committee.

Ms. McClure commented that the federal constitution is considered the floor, and they can not go below that. She indicated states are allowed to be above that, in certain areas of the law, in the area of housing, noting the federal constitution can allow some exemptions, and the state constitution can be broader. Senator Rasmussen stated that it

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 42 of 51

was his intention to zero in on the language related to the subject of this bill. Senator Bengtson commented that it does not affect the small private landlords.

Chairman Farrell suggested that the committee put off executive action on the bill to allow Ms. McClure and Ms. MacIntyre to work on it. He asked them if they can write an exemption for this one particular part, without affecting the rest of it. Ms. MacIntyre responded she is sure they could write such an exemption. Ms. McClure then asked if the committee wanted them to find out how many people in Montana that exemption that might affect, what percentage of the landlords are small. Senator Rasmussen indicated he did not care how many, that they talking about a philosophy here. Senator Bengtson indicated they would know how many more units may be available for rental using this, and how they may expand this. Senator Rasmussen indicated he did not know if anybody has a record of every little person that has one room for rent, noting that out-of-town legislators stay in those types of rentals. Ms. MacIntyre indicated that rooms for rent are excluded.

Senator Rasmussen withdrew his motion to amend HB336.

HEARING ON HB 488

Presentation and Opening Statement by Sponsor:

Representative Vivian Brooke stated that she brings before the committee a fairly simple bill, that HB488 essentially changes the deadline for people to become a candidate, if another candidate has dropped out of the race. She reported that, at the present time, a vacancy can be replaced up to 75 days prior to an election.

Representative Brooke indicated the reason she requested this change in the code was that she had the situation, this summer, when her opponent in the general election dropped out in July, and she was informed by the Secretary of State's office that they had, in fact, a deadline of 65 days, noting that, in some cases, it is 75, and in others, it is 65. She indicated that happened to turn out right at the time of the Labor Day weekend so that, in essence, the deadline was the Tuesday after Labor Day, at 5:00. She noted that day was also the day the Secretary of State's office was supposed to have the ballots certified in the clerk and recorder's offices around the state, so, in essence, this administrative glitch

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 43 of 51

could have resulted in the Secretary of State's office having sent out ballots, by their rules, and then, if a candidate had been replaced, the ballots would have had to come back to the Secretary of State for recertification. She stated this is to clarify that glitch, noting that, when we got into the codes regarding filling vacancies, they thought it would be best to be consistent with 85 days, throughout.

Representative Brook indicated that explains what the bill does. She pointed out that the committee will notice there is some language struck on page 3, and indicated, as they worked through these changes, it was recommended that they be consistent throughout, regarding both the general election, as well as the primary. She indicated they followed that advice and went with that change, but, in looking at the calendar, the committee may find that, prior to a primary, the 75 days should stay because that is the filing deadline date. She pointed out that, if they move that back to 85 days, there would be still be 10 days open for anybody to file. She noted they stayed with the 75 days prior to a primary, and moved the date back to 85 days for a vacancy prior to a general election, so that those people's names can be on the ballot, and the Secretary of State's office can administratively certify the ballot, and get it out to the clerks and recorders in a timely fashion.

Representative Brook noted that, when they presented this bill in the House State Administration Committee, there were proponents from both political parties. She apologized for not contacting them for this hearing, indicating that the committee should trust her that they completely support this.

List of Testifying Proponents and What Group they Represent:

C. B. Pearson, Common Cause of Montana

Testimony:

Mr. Pearson stated they support this legislation and urged a do pass.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

Representative Brooke thanked the committee for the hearing, and indicated she would appreciate a concurrence.

Chairman Farrell announced the hearing on HB488 as closed.

DISPOSITION OF HB 488

Discussion:

Senator Bengtson offered a motion that HB488 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB488 be concurred in.

HEARING ON HB 144

Presentation and Opening Statement by Sponsor:

Representative Linda Nelson's written testimony is attached as Exhibit 24.

List of Testifying Proponents and What Group they Represent:

Garth Jacobson, Secretary of State's Office

Testimony:

Mr. Jacobson's written testimony is attached as Exhibit 25.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

Representative Nelson thanked the committee for their patience, and indicated Senator Vaughn will carry the bill in the Senate.

Chairman Farrell announced the hearing on HB144 as closed.

DISPOSITION OF HB 144

Discussion:

Senator Vaughn offered a motion that HB144 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB144 be concurred in.

HEARING ON HB 77

Presentation and Opening Statement by Sponsor:

Representative Bob Thoft reported this bill deals with two historical properties owned by the state, which are under the jurisdiction of the historical society. He indicated the bill is to give local non-profit groups the authority to run those, under contract with the historical society, and that it takes the \$25,000 limitation off those expenditures, without going through the A&E and the legislative appropriation process.

Representative Thoft reported that they wanted to replace the roof on the Daly mansion, and that it is going to cost more than \$25,000. He indicated an informal attorney general's opinion was that they would have go through A&E and the legislative appropriation process, and that is not what the historical society wanted. He noted this would clear up that issue, and allow them run their historical sites under the jurisdiction of the historical society.

List of Testifying Proponents and What Group they Represent:

Robert M. Clark, Interim Director, Montana Historical Society  
J. Henry Badt, Daly Mansion, MACSS

Testimony:

Mr. Clark stated he is anxious to see this legislation pass, that he sees it, as Representative Thoft indicated, as simply a clarifying piece of legislation to make sure the original way these properties came under the control of the state is followed out. He indicated they have sufficient control with the procedures mentioned in the bill.

Testimony:

Mr. Badt reported they are definitely in favor of this. He indicated the requirements of going through the state department is a time restraint, and also costly. He noted their funds are derived from grants and private donations, and they feel that all of their complaints are already submitted to the state historical society and architect for approval.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

Representative Thoft thanked the committee for their time.

Chairman Farrell announced the hearing on HB77 as closed.

DISPOSITION OF HB 77

Discussion:

Senator Bengtson offered a motion that HB77 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB77 be concurred in.

HEARING ON HB 317

Presentation and Opening Statement by Sponsor:

Representative Ralph Eudaily reported that HB317 was requested by the teachers retirement board to plug some loop holes that a few members of the TRS have resorted to, which enables them to get additional retirement benefits, unfunded benefits, at the expense of other members of the retirement system. He indicated this is a condition that he thinks we, as legislators, always have to be watchful for, because our responsibility is to be sure that our retirement systems are properly funded, and are protected at all times.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 47 of 51

He indicated the bill limits the compensation which may be used in calculation of average final compensation, when a member of the teachers retirement system receives a substantial increase in compensation that may be included in that final three years compensation. He pointed out that they have the same problem of some school districts giving severance pay, noting they thought they had corrected that in 1981 by putting in the options currently in the bill, which calls that termination pay. He indicated that is still in the bill, and this does not affect that.

Representative Eudaily reported there are certain people, noting he will not classify them, but the committee members may be able to figure them out, who have been able to make deals with their school boards to put severance pay into their contract salary, which means that it has to be included in their final average compensation. He indicated that the few years they pay in do not pay for the benefits they receive, which has created an unfunded liability for the system, indicating David Senn will explain that further.

Representative Eudaily reported that the House State Administration Committee put this in subcommittee, who worked with the various groups that were covered regarding pay for non-work service. He indicated the second part of the first paragraph indicates that inflated salaries, because of late promotions or one-time salary adjustments given somebody because he's been a good ole boy, are not to be considered when figuring final compensation. He noted this bill provides that the amount of each year's earned compensation used in calculating the final compensation must not exceed the previous year by more than 10%. He pointed out that, at this stage of the game, not many people are getting 10% increases each year, so it is not going to hurt anybody, for a while, until we get back into better economic conditions.

Representative Eudaily indicated the second part says the legislature intends that the board make rules which make certain exemptions, noting these exemptions were put there because of the concerns of various groups, that, for instance, one resulted from collective bargaining agreements. He indicated that, if the whole district, through a collective bargaining agreement, subjects all teachers to this amount, it would be counted, because it is not an individual situation. He noted that number two was put in there because, in the university system, some people, in their later years, do get elevations. He indicated that, if a group has been calibrated, that is okay, but they can not pick one individual,

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 48 of 51

who is going to retire soon, and boost that person's salary.

Representative Eudaily stated there was some concern that people who, for instance, teach driver training during the summer time, or university professors who teach in the summer time might lose that summer credit, and indicated the third part was included for that purpose. He then indicated the last part says that, in addition, the legislature intends that the board's rules require each member to provide whatever evidence the board requests to substantiate what their final average compensation should be. He noted it also provides an immediate effective date, and the purpose of that is to try to close the gate as soon as they can, so that they don't keep abusing the system.

List of Testifying Proponents and What Group they Represent:

David L. Senn, Teachers' Retirement Board  
J. Henry Badt, Montana Association of County School  
Superintendents  
David Evenson, Montana University System  
Terry Minow, Montana Federation of Teachers  
Phil Campbell, Montana Education Association

Testimony:

Mr. Senn's written testimony is attached as Exhibit 29.

Testimony:

Mr. Badt indicated the Montana Association of County School Superintendents is not to be confused with the district superintendents, who are the good ole boys that Representative Eudaily was referring to. He pointed out that teachers with lower salaries are the largest contributors, because of their numbers, in the retirement system. He stated that allowing individuals, who work with the board of trustees to get large payments near the end of their career, to have their retirement raised is very inequitable, and noted there is the possibility of it resulting in over \$100 additional, a month, for the rest of their lives. He indicated they would hope the committee will concur with the bill, adding that it is important for it to pass.

Testimony:

Mr. Evenson stated they support HB317, as amended. He indicated this bill received a lot of comment and interest from the rank and file faculty in the university system,



SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 49 of 51

noting that everybody agreed abuses of the system should not be tolerated, but that there was some concern that they would get caught up in a law, or rule, which would work to their disadvantage, or be unfair to them. He reported they worked with the teachers' retirement board and members of the House, and they have some amendments that they think are very acceptable.

Mr. Evenson indicated that the university faculty was concerned regarding the 10% cap. He noted they were concerned that the board look favorably on teaching in summer school, and noted that research grants also take extra time in the summer. He further indicated that some temporary promotions might occur, where a person is made acting dean, at or near the end of his career, and that, sometimes, there are academic rank appointments, which might occur at or near the end of a person's career, to assistant professor or full professor. He reported the university faculty felt that these kinds of personnel actions were ordinary and usual, as far as personnel practices of the university system, noting he thinks they have an understanding with the teachers' retirement board that they will look favorably on those. Mr. Evenson stated he is not committing them that they will approve all of those kinds of adjustments, and indicated the faculty did feel, after they were assured of these things, that they could support this bill.

Testimony:

Ms. Minow stated the Montana Federation of Teachers represents both faculty and classroom teachers. She indicated that both groups are members of TRS, and support HB317, as amended. She stated it is a good bill, and they urge the committee's support.

Testimony:

Mr. Campbell stated they, too, would like to go on record in support on HB317.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

Q. Senator Rapp-Svrcek indicated he is concerned about the 10% cap, and how it might apply to a teacher who, in a small district, is promoted to a supervising teacher, as

SENATE COMMITTEE ON STATE ADMINISTRATION

March 10, 1989

Page 50 of 51

opposed to a superintendent, and asked Mr. Senn if that would be considered termination pay.

A. Mr. Senn responded that, if an individual is promoted to that position, and then retires within the next three years, it would raise a flag to the people working on retirement accounts. He pointed out that they drafted this bill to provide that the board adopt administrative rules, and that the board would have the authority to look at those type of adjustments, and make the decision to waive it. He added that promotions would not necessarily count as termination pay.

Q. Senator Rapp-Svrcek asked Mr. Senn if it is his sense that the board would waive a situation like that.

A. Mr. Senn responded yes.

Q. Chairman Farrell asked, if this bill does not pass, are they are going to have to raise the contribution rate by 7/5ths of a percent to fund the TRS system.

A. Mr. Senn responded it would be 7/100ths of a percent.

Closing by Sponsor:

Representative Eudaily thanked the committee for their time.

Chairman Farrell announced the hearing on HB317 as closed.

DISPOSITION OF HB 317

Discussion:

Senator Rasmussen offered a motion that HB317 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB317 be concurred in.

ADJOURNMENT

Adjournment At: 12:10 p.m.

  
WILLIAM E. FARRELL, Chairman

WEF/mhu  
HB77.310

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: March 10, 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

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 270 (third reading copy -- blue), respectfully report that HB 270 be concurred in.

Sponsor: Ramirez (Farrell)

BE CONCURRED IN

Signed: Farrell

William E. Farrell, Chairman

W.E.  
3/10/89  
2:40  
P.M.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 604 (third reading copy -- blue), respectfully report that HB 604 be concurred in.

Sponsor: O'Connell (Van Valkenburg)

BE CONCURRED IN

Signed: *William E. Farrell*  
William E. Farrell, Chairman

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 264 (third reading copy -- blue), respectfully report that HB 264 be amended and as so amended be concurred in:

Sponsor: Hannah (Bengtson)

1. Page 3.

Following: line 16

Insert: "(4) The sheriff, in conjunction with the board of county commissioners, shall establish a written policy on how jail inmates may volunteer for participation in the county work program and what criteria the sheriff shall use to choose volunteers if there are more eligible persons volunteering than are needed in the program."


Renumber: subsequent subsections

2. Page 4, line 17.

Following: "sheriff"

Insert: ", pursuant to written policy,"

AND AS AMENDED BE CONCURRED IN

Signed: 

William E. Farrell, Chairman

W.C.  
3/10/89  
2:49  
p.m.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 267 (third reading copy -- blue), respectfully report that HB 267 be not concurred in.

Sponsor: Kilpatrick (Farrell)

BE NOT CONCURRED IN

Signed: William E. Farrell  
William E. Farrell, Chairman

410  
3110189  
2:40  
P.M.



SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 488 (third reading copy -- blue), respectfully report that HB 488 be concurred in.

Sponsor: Brooke (Harding)

BE CONCURRED IN

Signed: Farrell

William E. Farrell, Chairman

W. E.  
3/10/89  
2:40 p.m.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 144 (third reading copy -- blue), respectfully report that HB 144 be concurred in.

Sponsor: Nelson, L. (Vaughn)

BE CONCURRED IN

Signed: Farrell  
William E. Farrell, Chairman

H.C.  
3/10/89  
3:40  
P.M.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 77 (third reading copy -- blue), respectfully report that HB 77 be concurred in.

Sponsor: Thoft (Bengtson)

BE CONCURRED IN

Signed: Farrell

William E. Farrell, Chairman

*Handwritten notes:*  
H.C.  
3:11:00  
3:11:00

SENATE STANDING COMMITTEE REPORT

March 10, 1983

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 317 (third reading copy -- blue), respectfully report that HB 317 be concurred in.

Sponsor: Eudaily (Hammond)

BE CONCURRED IN

Signed: William E. Farrell  
William E. Farrell, Chairman

W.E. Farrell  
3/10/83  
7:40 PM

MONTANA DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING BULLETIN BOARD  
JANUARY 24, 1988

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Date of inception - January 10, 1989

Number of calls - 3,350

Numbers of users - 315

Typical users: Agribusiness  
Commercial banks  
Educational institutions  
Farmers  
Ranchers  
Government agencies  
Public libraries  
Regional development groups  
MSU Extension  
News Services

The AMBB is serving as a model for state departments of Agriculture nation wide. The AMBB was featured at recent symposium in Denver, Colorado sponsored by the Agricultural Research Institute. The Virginia Department of Agriculture is actively developing a bulletin board modeled after Montana's.

The AMBB serves as an educational tool for vo-tech and high school science teachers.

Public libraries and regional development groups are showing interest in establishing a network of computers capable of linking with the AMBB and providing wider access to AMBB services.

The Alberta Department of Agriculture has agreed to allow the department to include a series of farm and ranch computer programs on the AMBB. These programs are designed to assist the average farmer or rancher in daily farm\ranch operation and economics.

Montana State University has agreed to open a section for MSU publications and news. This will allow newspapers across the state to access MSU Agricultural news stories without the need to typeset the text.

By adding multi-line capability, the AMBB can now be accessed by three users at the same time, preventing delays from the system being tied up.



STAN STEPHENS  
GOVERNOR

STATE OF MONTANA BILL NO. HB 270  
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR  
AGRICULTURE/LIVESTOCK BLDG.  
CAPITOL STATION  
HELENA, MONTANA 59620-0201

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 3/10/89

TELEPHONE:  
AREA CODE 406  
444-3144

FAX 406-444-5409

EVERETT M. SNORTLAND  
DIRECTOR

TESTIMONY OF THE MONTANA DEPARTMENT OF AGRICULTURE  
FOR THE HOUSE STATE ADMINISTRATION COMMITTEE  
ON HOUSE BILL 270  
TUESDAY, JANUARY 24, 1989  
HELENA, MONTANA

Chairman Brown and members of the committee. For the record my name is Ralph Peck, Deputy Director and I'm here today at the request of Representative Ramirez, as a resource to the committee to provide information pertaining to the Agricultural Marketing Bulletin Board (AMBB) currently located with in the Department of Agriculture's, Agricultural Development Division (see attached brochure and fact sheet).

The department initiated its bulletin board just over a year ago to address the need for information and statistics in agriculture. Since its' origination the bulletin board has been accessed approximately 3,350 times. Individuals using the system have been very happy with the service and continually suggest improvements. New and innovative concepts are continually being added to the system (see attached fact sheet).

The bulletin board provides a central source of information that can be accessed from anywhere in the country by anyone with a computer and phone modem. This concept is especially advantageous in the area of agricultural market development and is in touch with the increasingly higher technology of United States agriculture.

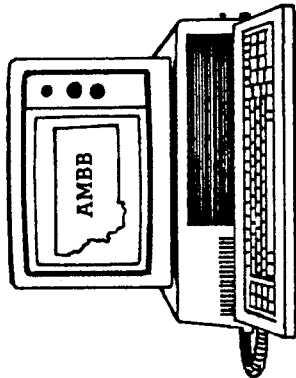
I will be happy to provide additional information or answer questions from the committee.

### USING THE SYSTEM

The system only requires that you have access to a computer with a phone modem. Communication with the AMBB is as simple as making a phone call. To link with the computer dial 1-406-444-5411. Your modem should be set to the following protocol:

- Databits — 8
- Parity — None
- Stop Bits — 1
- Duplex — Full
- Emulation — None

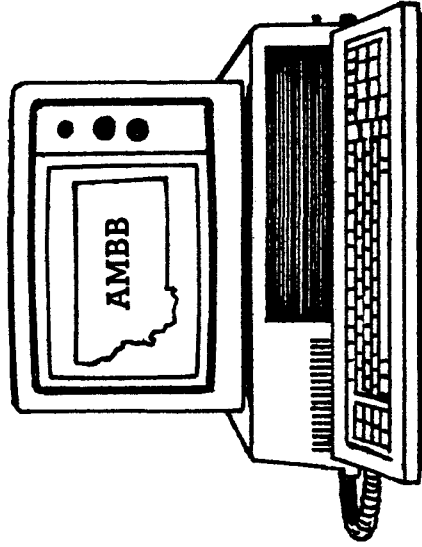
Except for the cost of the phone call, there is no charge for AMBB services.



For further information concerning the AMBB, to request to be included in the bulletin board or to request information regarding other aspects of the department's marketing program, call (406) 444-2402 or write:

Marketing Bureau  
Agricultural Development Division  
Montana Department of Agriculture  
Agriculture/Livestock Building  
Capitol Station  
Helena, MT 59620

# MONTANA AGRICULTURAL MARKETING BULLETIN BOARD



1-406-444-5411

PROVIDING AGRICULTURAL  
MARKETING SERVICES  
FOR THE WESTERN  
REGION

Montana Department  
of Agriculture  
Keith Kelly, Director

Montana Department of Agriculture  
Agriculture/Livestock Building  
Capitol Station  
Helena, MT 59620-0201

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 3/10/89

BILL NO. HB 270

Stamp

WITNESS STATEMENT

EXHIBIT NO. 4  
DATE 3/10/89  
BILL NO. HB604

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: Bill STEELE DATE: 3-10-89

Address: #1 Skyline DRIVE

Phone: 761-3295

Representing whom?  
RETIRED POLICE OFFICERS ASS'N.

Appearing on which proposal?  
HB604

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
I have submitted a written statement  
exhibit #5

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



**MONTANA RETIRED POLICE OFFICER  
ASSOCIATION**

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 3/10/89

BILL NO. HB 604

HB 604 - Section 19-9-1011 MCA  
Legislative Amendment

My name is Bill Steele. I am a retired member of the Great Falls Police Department. I am here before you as a representative of the Montana Retired Police Officer Association, and wish to speak on behalf of HB 604. We stand in favor of this bill.

The purpose of HB 604 is to make Section 19-9-1011 equitable for all police officers who retire under this section. At the present time it is not serving each retired officer in an equal manner.

At the present time an officer who retired before July 1, 1975 receives his retired payment as determined by the years he served in active service (20 years or more). When that retirement amount becomes less than half of the pay of a newly confirmed officer of the city department he/she served at time of retirement, that person's retirement pay then becomes based on, and is paid each year at the rate of half of a confirmed officers pay scale for that particular city. The officer who retired after July 1, 1975, or is yet to retire (after 20 years of service or more, and reached the age of 50 years) retires at a fixed amount for which there is no adjustment at a future date.

In 1985 the legislature made a one time adjustment for officers who retired between July 1, 1975 and July 1, 1985. This bill brought approximately 16 officers up to the same retirement as those retired before July 1, 1975. At the present time those same 16 officers are now once again receiving less than those retiring before July 1, 1975.

HB 604 would correct this inequity. This amendment is not a request for an additional benefit for all recipients of the police retirement system. It is an amendment that establishes an equity within the system, so that what some are now receiving will be received by all. We would greatly appreciate your support of this bill.

EXHIBIT NO. 6

DATE 3/10/89

BILL NO. HB604

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:

Earl D Kelley

3-10-89

Address:

321 Riverview NW

Hot Wells MT 59404

Phone:

406-452-1905

Representing whom?

H.B. 604 Retired Police Officer GSSA

Appearing on which proposal?

H.B. 604

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 7

WITNESS STATEMENT

DATE 3/10/89

BILL NO. HB604

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: Frank W Cole

DATE: 3- - 89

Address: 1710 DeGoe  
Missoula, Mont.

Phone: \_\_\_\_\_

Representing whom?  
Retired Police Officer

Appearing on which proposal?  
\_\_\_\_\_

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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WITNESS STATEMENT

EXHIBIT NO. 8

DATE 3/10/89

BILL NO. HB604

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: TIMOTHY SHANKS

DATE: 3/10/89

Address: 337 Riverview 4 West  
GREAT FALLS MT

Phone: 453 6224

Representing whom?  
GREAT FALLS POLICE DEPT

Appearing on which proposal?  
HB 604

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
I WILL GIVE TESTIMONY

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 9

DATE 3/10/89

BILL NO. HB604

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:

G. LEE MELTZER

3-10-89

Address:

1520 SUNFLOWER

MISSOULA, MONTANA 59802

Phone:

406-728-1364

Representing whom?

MISSOULA POLICE ASSOCIATION

Appearing on which proposal?

HB 604

Do you:

SUPPORT?

AMEND?

OPPOSE?

Comments:

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 10

DATE 3/10/89

BILL NO. HB604

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:

CHARLES L. BICSAK

Address:

2904- 7th AVE So  
GREAT FALLS MONT.

Phone:

453-3720

Representing whom?

RETIRED POLICE OFFICERS ASS'N

Appearing on which proposal?

HB 604

Do you:

SUPPORT?

X

AMEND?

OPPOSE?

Comments:

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 11

DATE 3/10/89

BILL NO. HB604

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: R. Nadrian Jensen DATE: 3-10-89

Address: PO Box 5356  
Helena

Phone: 442-1192

Representing whom?  
AFSCME

Appearing on which proposal?  
HB 604

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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# Montana Magistrates Association

SENATE STATE ADMIN.

EXHIBIT NO. 12

DATE 3/10/89

BILL NO. HB264

10 March 1989

Testimony offered in support of HB264, a bill for an act entitled: "An act authorizing county jail work programs; providing that person convicted of a nonviolent offense may volunteer to do designated work for the county in lieu of incarceration in the county jail; providing that a county jail work program is to be supervised by the county sheriff; providing that the crime of escape is applicable to a person participating in a county jail work program."

Given by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

The Montana Magistrates Association supports this measure. We only wish it addressed the liability problem of having someone injured while on a work-detail.

*Wallace A. Jewell.*



SENATE STATE ADMIN.

EXHIBIT NO. 13

DATE 3/10/89

BILL NO. HB 264

Amendments to House Bill No. 264  
Third Reading Copy

Requested by Representative Hannah  
For the Committee on State Administration

Prepared by Lee Heiman  
March 10, 1989

1. Page 3.

Following: line 16

Insert: "(4) The sheriff, in conjunction with the board of county commissioners, shall establish a written policy on how jail inmates may volunteer for participation in the county work program and what criteria the sheriff shall use to choose volunteers if there are more eligible persons volunteering than are needed in the program."

Renumber: subsequent subsections

2. Page 4, line 17.

Following: "sheriff"

Insert: ", pursuant to written policy,"



*The Big Sky Country*

SENATE STATE ADMIN.

EXHIBIT NO. 14

DATE 3/10/89

BILL NO. HB267 pgl

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE TOM KILPATRICK

HOUSE DISTRICT 85

HOME ADDRESS.

BOX 546

LAUREL, MONTANA 59044-0546

MARCH 9, 1989

TESTIMONY PRESENTED IN SUPPORT OF HB 267  
BEFORE SENATE STATE ADMINISTRATION COMMITTEE

MARCH 10, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD, MY NAME IS TOM KILPATRICK, STATE REPRESENTATIVE FROM HOUSE DISTRICT 85, THE LAUREL AREA. I'M HERE TO ASK YOUR SUPPORT AND APPROVAL OF HOUSE BILL 267.

HOUSE BILL 267 IS AN AMENDMENT TO EXISTING CAMPAIGN LAW THAT WOULD REQUIRE POLITICAL CANDIDATES TO INCLUDE PARTY AFFILIATION IN ELECTION MATERIALS.

I'M SPONSORING HB 267 AS GOOD GOVERNMENT, OPEN GOVERNMENT, AND HONESTY IN GOVERNMENT. WE HAVE AN OBLIGATION TO THE VOTING PUBLIC TO ADD TO THE INTEGRITY OF THE ELECTORAL PROCESS WHENEVER WE CAN. HOUSE BILL 267, BY ADDING MORE ACCOUNTABILITY, DOES JUST THAT.

WHILE WE HAVE ALL BEEN TOLD BY NUMEROUS VOTERS, THAT THEY VOTE FOR THE PERSON AND NOT THE PARTY, THEY HAVE THE RIGHT TO KNOW PARTY AFFILIATION BE IT DEMOCRAT, REPUBLICAN OR LIBERTARIAN.

MOST OF US RAN AS EITHER DEMOCRATS OR REPUBLICANS BECAUSE OF PHILOSOPHICAL BELIEFS OR LEANINGS. TO DISAVOW THOSE LEANINGS THROUGH CAMPAIGN MATERIAL OMISSION OF AFFILIATION, IS NOT BEING COMPLETELY HONEST TO THE VOTERS. FURTHER, IF ANY CANDIDATE FEELS SO STRONGLY ABOUT NOT HAVING PARTY AFFILIATION ON THEIR MATERIALS, THEY CAN REGISTER AS AN INDEPENDENT.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THE VOTERS IN MY DISTRICT, AND I, FEEL SAFE IN SAYING THAT MONTANANS ARE TIRED OF NEGATIVISM AND DECEPTION DURING THE CAMPAIGN SEASON. AS I STATED EARLIER, WE DO HAVE AN OBLIGATION TO THE VOTING PUBLIC TO MAINTAIN OPEN AND HONEST GOVERNMENT. HOUSE BILL 267 FURTHERS THAT GOAL BY STRENGTHENING THE EXISTING LAW WHILE PLACING NO FURTHER BURDEN ON CANDIDATES.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I URGE YOUR SUPPORT AND PASSAGE OF HOUSE BILL 267. THANK YOU FOR YOUR TIME.

TOM KILPATRICK, REPRESENTATIVE

SENATE STATE ADMIN.

EXHIBIT NO. 15

DATE 3/10/89

BILL NO. HB267

LEAGUE OF WOMEN VOTERS OF MONTANA

10 MAR 89

Joy Bruck, president

1601 Illinois, Helena, Montana 59601

HB 267 - An act requiring a political candidate to include party affiliation in election materials

The League of Women Voters of Montana supports HB 267. In partisan election campaigns, identification of a candidate's party affiliation would serve the voters' need for essential information.

At one point in my life, I could look at a car and immediately identify the maker, model, year, and sometimes even horsepower. That is no longer true. Many voters have the same difficulty with candidates for partisan political office. Most modern campaigns are run with a high degree of independence from direct political party supervision. Yet the candidate's choice of a political party still provides a useful indication of the candidate's point of view on many important policy issues.

Identification of party affiliation is particularly important in Montana because it is an open primary state. The 1988 gubernatorial race is a good example of an instance where there were two hotly contested campaigns for the major party nominations. Voter interest was high and the ready identification of a candidate's party was important.

The League has been a consistent proponent of campaign disclosure and HB 267 would be a positive addition to the state's political campaign laws. We ask that this bill be given a Do Pass recommendation by the Senate State Administration Committee.

Margaret S. Davis

316 Flowerree St.

Helena, Montana 59601

443-3487

receive and process complaints or otherwise engage in enforcement activities under this title.

"(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

"(7) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

State and local governments.

"(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

Public health and safety.

"(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others."

42 USC 3606.

(b) ADDITIONAL PROTECTED CLASSES.—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

42 USC 3602 note.

(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

(c) DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.—Section 805 is amended to read as follows:

"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

42 USC 3605.

"SEC. 805. (a) IN GENERAL.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

"(b) DEFINITION.—As used in this section, the term 'residential real estate-related transaction' means any of the following:

"(1) The making or purchasing of loans or providing other financial assistance—

"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

"(B) secured by residential real estate.

"(2) The selling, brokering, or appraising of residential real property.

"(c) APPRAISAL EXEMPTION.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status."

42 USC 3607.

(d) ADDITIONAL EXEMPTION.—Section 807 is amended—

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EXHIBIT NO. 16DATE 3/10/89BILL NO. H.R. 336 852  
102 STAT. 1627

PUBLIC LAW 100-430—SEPT. 13, 1988

(1) by inserting "(a)" after "Sec. 807."; and

(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section, 'housing for older persons' means housing—

"(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

"(B) intended for, and solely occupied by, persons 62 years of age or older; or

"(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

"(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

"(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)."

(e) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

#### SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

Regulations.  
Aged persons.

Aged persons.

Drugs and drug  
abuse.

42 USC 3604.

42 USC 3608.

- (i) An accessible route into and through the covered dwelling unit;
  - (ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - (iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and
  - (iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- (d) The application of paragraph (c) of this section may be illustrated by the following examples:

*Example (1):* A developer plans to construct a 100 unit condominium apartment building with one elevator. In accordance with paragraph (a), the building has at least one accessible route leading to an accessible entrance. All 100 units are covered multifamily dwelling units and they all must be designed and constructed so that they comply with the accessibility requirements of paragraph (c) of this section.

*Example (2):* A developer plans to construct 30 garden apartments in a three story building. The building will not have an elevator. The building will have one accessible entrance which will be on the first floor. Since the building does not have an elevator, only the "ground floor" units are covered multifamily units. The "ground floor" is the first floor because that is the floor that has an accessible entrance. All of the dwelling units on the first floor must meet the accessibility requirements of paragraph (c) of this section and must have access to at least one of each type of public or common use area available for residents in the building.

(e) Compliance with the appropriate requirements of ANSI A117.1-1986 suffices to satisfy the requirements of paragraph (c)(3) of this section.

(f) Compliance with a duly enacted law of a State or unit of general local government that includes the requirements of paragraphs (a) and (c) of this section satisfies the requirements of paragraphs (a) and (c) of this section.

(g)(1) It is the policy of HUD to encourage States and units of general local government to include, in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraphs (a) and (c) of this section.

(2) A State or unit of general local government may review and approve newly constructed multifamily dwellings for the purpose of making determinations as to whether the requirements of paragraphs (a) and (c) of this section are met.

(h) Determinations of compliance or noncompliance by a State or a unit of general local government under

paragraph (f) or (g) of this section are not conclusive in enforcement proceedings under the Fair Housing Amendments Act.

(i) This subpart does not invalidate or limit any law of a State or political subdivision of a State that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subpart.

#### Subpart E—Housing for Older Persons

##### § 100.300 Purpose.

The purpose of this subpart is to effectuate the exemption in the Fair Housing Amendments Act of 1988 that relates to housing for older persons.

##### § 100.301 Exemption.

(a) The provisions regarding familial status in this part do not apply to housing which satisfies the requirements of §§ 100.302, 100.303 or § 100.304.

(b) Nothing in this part limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

##### § 100.302 State and Federal elderly housing programs.

The provisions regarding familial status in this part shall not apply to housing provided under any Federal or State program that the Secretary determines is specifically designed and operated to assist elderly persons, as defined in the State or Federal program.

##### § 100.303 62 or over housing.

(a) The provisions regarding familial status in this part shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:

(1) There are persons residing in such housing on September 13, 1988 who are under 62 years of age, provided that all new occupants are persons 62 years of age or older;

(2) There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or over;

(3) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(b) The following examples illustrate the application of paragraph (a) of this section:

*Example (1):* John and Mary apply for housing at the Vista Heights apartment

complex which is an elderly housing complex operated for persons 62 years of age or older. John is 62 years of age. Mary is 59 years of age. If Vista Heights wishes to retain its "62 or over" exemption it must refuse to rent to John and Mary because Mary is under 62 years of age. However, if Vista Heights does rent to John and Mary, it might qualify for the "55 or over" exemption in § 100.304.

*Example (2):* The Blueberry Hill retirement community has 100 dwelling units. On September 13, 1988, 15 units were vacant and 35 units were occupied with at least one person who is under 62 years of age. The remaining 50 units were occupied by persons who were all 62 years of age or older. Blueberry Hill can qualify for the "62 or over" exemption as long as all units that were occupied after September 13, 1988 are occupied by persons who were 62 years of age or older. The people under 62 in the 35 units previously described need not be required to leave for Blueberry Hill to qualify for the "62 or over" exemption.

##### § 100.304 55 or over housing.

(a) The provisions regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit. *Provided That* the housing satisfies the requirements of § 100.304 (b)(1) or (b)(2) and the requirements of § 100.304(c).

(b)(1) The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. "Significant facilities and services specifically designed to meet the physical or social needs of older persons" include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, an accessible physical environment, emergency and preventive health care of programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available to them (the housing facility need not have all of these features to qualify for the exemption under this subparagraph); or

(2) It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this paragraph (b)(2) of this section the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social

needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of this paragraph (b)(2) of this section—

(i) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.

(ii) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.

(iii) The income range of the residents of the housing facility.

(iv) The demand for housing for older persons in the relevant geographic area.

(v) The range of housing choices for older persons within the relevant geographic area.

(vi) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area then the housing facility does not meet the requirements of this paragraph (b)(2) of this section.

(vii) The vacancy rate of the housing facility.

(c)(1) At least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit *except that* a newly constructed housing facility for first occupancy after March 12, 1989 need not comply with this paragraph (c)(1) of this section until 25% of the units in the facility are occupied; and

(2) The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this paragraph (c)(2) of this section:

(i) The manner in which the housing facility is described to prospective residents.

(ii) The nature of any advertising designed to attract prospective residents.

(iii) Age verification procedures.

(iv) Lease provisions.

(v) Written rules and regulations.

(vi) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

(d) Housing satisfies the requirements of this section even though:

(1) On September 13, 1988, under 80% of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.

(2) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.

(3) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(e) The application of this section may be illustrated by the following examples:

*Example 1:* A. John and Mary apply for housing at the Valley Heights apartment complex which is a 100 unit housing complex that is operated for persons 55 years of age or older in accordance with all the requirements of this section. John is 56 years of age. Mary is 50 years of age. Eighty (80) units are occupied by at least one person who is 55 years of age or older. Eighteen (18) units are occupied exclusively by persons who are under 55. Among the units occupied by new occupants after September 13, 1988 were 18 units occupied exclusively by persons who are under 55. Two (2) units are vacant. At the time John and Mary apply for housing, Valley Heights qualifies for the "55 or over" exemption because 82% of the occupied units (80/98) at Valley Heights are occupied by at least one person 55 years old or older. If John and Mary are accepted for occupancy, then 81 out of the 99 occupied units (82%) will be occupied by at least one person who is 55 years of age or older and Valley Heights will continue to qualify for the "55 or over" exemption.

B. If only 78 out of the 98 occupied units had been occupied by at least one person 55 years of age or older, Valley Heights would still qualify for the exemption, but could not rent to John or Mary if they were both under 55 without losing the exemption.

*Example 2:* Green Meadow is a 1,000 unit retirement community that provides significant facilities and services specifically designed to meet the physical or social needs of older persons. On September 13, 1988, Green Meadow published and thereafter adhered to policies and procedures demonstrating an intent to provide housing for persons 55 years of age or older. On September 13, 1988, 100 units were vacant and 300 units were occupied only by people who were under 55 years old. Consequently, on September 13, 1988 67% of the Green Meadow's occupied units (600 out of 900)

were occupied by at least one person 55 years of age or older. Under paragraph (d)(1) of this section, Green Meadow qualifies for the "55 or over" exemption even though, on September 13, 1988, under 80% of the occupied units in the housing facility were occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that were occupied after September 13, 1988 are occupied by at least one person 55 years of age or older. Under paragraph (d) of this section, Green Meadow qualifies for the "55 or over" exemption, even though it has unoccupied units, provided that at least 80% of its unoccupied units are reserved for occupancy by at least one person 55 years of age or over.

*Example 3:* Waterfront Gardens is a 200 unit housing facility to be constructed after March 12, 1989. The owner and manager of Waterfront Gardens intends to operate the new facility in accordance with the requirements of this section. Waterfront Gardens need not comply with the requirement in paragraph (c)(1) of this section that at least 80% of the occupied units be occupied by at least one person 55 years of age or older per unit until 50 units (25%) are occupied. When the 50th unit is occupied, then 80% of the 50 occupied units (i.e., 40 units) must be occupied by at least one person who is 55 years of age or older for Waterfront Gardens to qualify for the "55 or over" exemption.

#### Subpart F—Interference, Coercion or Intimidation

##### § 100.400 Prohibited interference, coercion or intimidation.

(a) This subpart provides the Department's interpretation of the conduct that is unlawful under section 818 of the Fair Housing Act.

(b) It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part.

(c) Conduct made unlawful under this section includes, but is not limited to, the following:

(1) Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, handicap, familial status, or national origin.

(2) Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, handicap, familial status, or national origin of such persons, or of visitors or associates of such persons.





OFFICE OF PUBLIC INSTRUCTION

SENATE STATE ADMIN.  
EXHIBIT NO. 18  
DATE 3/10/89  
BILL NO. HB 336 pgt

Nancy Keenan  
Superintendent

STATE CAPITOL  
HELENA, MONTANA 59620  
(406) 444-3095

December 28, 1988

RECEIVED

JAN 26 1989

HUMAN RIGHTS DIVISION

Mr. Ed Smith  
Department of Education  
400 Maryland Avenue Southwest  
Washington, D.C. 20202

Dear Mr. Smith:

The enclosed information includes the Stewart B. McKinney Final Report for 1988 and supplemental information to that report.

In Jean's last letter you indicated that the methods used by states to count homeless children and youth differed in number and direction. Our office decided to generate our own survey and needs assessment (sample enclosed). We feel we have accomplished a great deal and are happy with the accuracy of our data as of this date. Our only problem was a low response rate. As with many projects, we would very much like to begin a project like this with the knowledge we have gained since its beginning.

We do feel very confident in the survey instrument, our method of input and the results. We do have an unduplicated count. We used three initials plus a six digit birth date as our identifier. There were only a few respondents to our survey that would not or could not provide that identifier (those numbers are not included in the data--approximately 100 homeless).

Sincerely,

TERRY L. TEICHROW  
Coordinator for Homeless Children and Youth

TLT:cl

Enclosures

## MONTANA SURVEY INFORMATION

## 1. Number of Surveys Mailed

760 - Montana schools  
490 - Service providers (state, county, local, private, law  
enforcement agencies, hospitals, shelters, and  
businesses)  
-----  
1250 - Total

## 2. Respondents to Survey

447 - Returned

\*Two major respondents called to report that they could not research their records before the December 19 deadline. Their responses are not in the report but include approximately 100 homeless.

Respondents

The actual survey respondents include school superintendents, principals, guidance counselors, teachers (elementary, junior high, high school), nurses, sheriffs, police officers, hospital personnel, shelter owners and operators, state social services case workers, managers, etc.

The information they have provided is from case files, school records, computer data base files, personal knowledge and more. The respondents were asked to respond with information over the last full year, not as of a day of the year. We feel this will not overstate or understate because some will enter the system and others will leave.

\*These should provide enough information to fulfill questions 1-b, 11-b and 111-b in the final report.

\*Our survey contains a group of pre-school homeless children. These numbers (263) are not included in the final report.

**STATUS REPORT - EDUCATION OF HOMELESS CHILDREN AND YOUTH  
UNDER THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT  
DEPARTMENT OF EDUCATION**

**GENERAL INSTRUCTIONS**

**SPECIFICS:** Please provide the following information requested pursuant to Section 722(d) of the Stewart B. McKinney Homeless Assistance Act and return to:

Mr. Edward Smith  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW (Room 2030 - MS 6257)  
Washington, D.C. 20202

**DEFINITIONS:** For purposes of this reporting form, the following definitions apply:

**Homeless**- A homeless individual is one who (1) lacks a fixed, regular, and adequate residence or (2) has a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings (Section 103 (a)(1)(2) of the Act).

The term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained by an Act of Congress or a State law (Section 103(c)).

**Child** and **Youth**- Persons who, if they were children of residents of the State, would be entitled to a free public education.

I. (a) List numbers of homeless children and youth in your State according to school-level groups.

<u>School Level</u>	<u>Numbers of Children/Youth</u>
Elementary (K-6)	<u>543</u>
Middle/Jr. High (7-9)	<u>270</u>
High School (10-12)	<u>820</u>
Total	<u>1633</u>

(b) Indicate the source of the information in item I.(a).

Montana State Survey: Homeless Children and Youth

(See page 2 of supplemental for specifics, i.e., Respondents)

Survey data base results. Page 1 of Survey

I. (a) List (in rank and order) numbers of children housed according to the locations of homeless children and youth in your State. (NOTE: The total number of children should equal the total number in item I.(a)).

<u>Type of Housing</u>	<u>Numbers of Children/Youth</u>
Public operated shelters	<u>                    </u>
Privately operated shelters	<u>313</u>
Relatives or friends	<u>530</u>
Other (specify) <u>See page 1-b of final report</u>	<u>790</u>

Q. 11.a.

Our survey is broken down into six homeless categories. In our survey public and private shelters are in one group. (313 children).

"Relatives and friends" is a category of its own and is not a near homeless category; it is a homeless category. Our criteria to the respondents was to count them as homeless if they had been with a friend or relative for less than two years. We did not count them if they were over two years in a situation. (530 homeless)

The final report category of other includes the following: (790 homeless)

- a. Living on streets (outdoors) - 38
- b. Semi-homeless (abandoned cars, caves, etc.) - 38
- \* e. Foster care (short term) - 591
- \* f. Other - 123

\*There has been some discussion about whether foster care is homeless. Montana has two types of foster care--immediate and temporary. These are intended to provide a place for children until permanent or long-term care can be found.

\*The response used most often in the other category was adequate. Children did not have an adequate home or shelter in 90% of the write-in responses.

Needs Assessment Question # 1

Does your shelter program serve families with dependent children or unaccompanied minors?

- \* 22 - Yes
- 302 - No Shelter

\* The narrative response to our needs assessment was very strong for the need of shelters, a safe adequate place for children to stay for a short- or long-term period.

Questions 9 and 10 of the needs assessment were the most enlightening. The narrative responses were informative and sometimes passionate in their views.

EXHIBIT NO. 18

DATE 3/10/89

BILL NO. HB 336 pg 5

(t) Indicate the source of the information provided in II.(a).

Same as 1-b

(See page 1 of Montana State Survey: Homeless Children and Youth)

III.(a) List in order of numbers of homeless children, those municipalities having the greatest numbers of homeless children and youth.

<u>Name of Municipality</u>	<u>Numbers of Children/Youth</u>
<u>Billings</u>	<u>348</u>
<u>Missoula</u>	<u>284</u>
<u>Helena</u>	<u>173</u>
<u>Great Falls</u>	<u>129</u>
<u>Lame Deer Area</u>	<u>112</u>
<u>Ft. Belknap Reservation</u>	<u>90</u>

(b) Indicate the source of the information provided in III.(a).

Information was obtained by a search of our survey final report. Pre-school not included.

IV. The sum of (a) and (b) should equal the total number reported in item I.(a).

(a) How many homeless children and youth are presently attending school in your State? 1399

(b) How many homeless children and youth are not attending school in your State? 234

(c) Indicate the source of information provided in IV(a) and (b).

The last column of the survey is a response to student attendance in school. See survey form.

V. Indicate the reasons the homeless children and youth are not attending school in your State, and provide the basis for these conclusions.

Needs Assessment Question 5 and 6: See additional page.

This information is gathered from responses by individuals filling out survey. These people work with homeless children on a daily basis. They have the knowledge to provide accurate responses to this question.

## Final Report Question V.

(in order of number of responses to needs assessment)

		447 responses
		---
* Family stres	128	29%
Drug and alcohol use	103	23%
Parents keeping children out of school	97	22%
* Lack quiet/place to study	82	18%
Fatigue	71	16%
E & H-getting records/ immunizations	67	15%
* Caring for sibling	61	14%
Attendance rules	55	12%
* Lacks transportation	48	11%
Difficulties transferring between schools	46	10%
Malnutrition/health/ clothing	36	8%
* Tuition payment problems	20	4%
District refusing to register students	8	2%

\*Those responses with an asterisk had numerous narrative responses in regard to corresponding subject.

Basis For Conclusion

Any time the usual home environment is interrupted for any reason, the student learning process is also interrupted and put at-risk. All of the reasons above affect a student either getting into school, attending on his/her own or staying in a school system as these factors affect their daily life cycle.

pg 7 189  
93  
75  
58  
57  
44  
39  
29  
29  
22

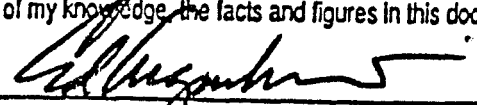
VI. (a) List, in order of importance, the special educational needs of the homeless children and youth.

1. Need an advocate for homeless with the schools.
  2. Teachers need to be more aware and concerned.
  3. Tutoring available out of schools.
  4. Safe and adequate housing.
  5. Day care for siblings.
  6. Transportation to schools.
  7. Alternative education site for homeless.
  8. Counseling, intervention and treatment.
  9. Training and jobs for parents and youth.
  10. Need old school records.
- (From question 7 and 8 on Needs Assessment)

(b) List, in order of importance, the difficulties you have encountered in identifying these needs.

1. Lack of specific knowledge about individuals. 51%
2. Definition not specific enough (too broad). 27%
3. Lack of parent cooperation. 11%
4. Too time consuming to retrieve information. 9%

\*To the best of my knowledge, the facts and figures in this document are accurate.\*

  
Chief State School Officer

12-29-88  
Date

## FINAL REPORT: ADDENDUM

We believe that the homeless count provided by the survey respondents is accurate. However, it must be noted that the figures in this report reflect only those homeless children and youth reported by those respondents (35.7% response rate). These figures do not reflect the total homeless population. We know that our number is understated based on Veterans Administration and U.S. Census Bureau information. They indicate a large number of families living in areas of Montana that are very hard to count.

Montana calculated a correlation coefficient between the number of homeless children in 36 counties compared with the July 1, 1987 population estimate in each of these counties. Montana has a total population of about 809,000 persons in 56 counties. The correlation coefficient was .85 which was statistically significant and was unlikely to occur by chance. The regression equation was used to calculate the total number of homeless children in Montana based on the total population. Montana is estimated to have 2624 homeless children. This estimate is believed to be accurate because of the very high correlation coefficient.

2624 - Projected Homeless Children and Youth

1633 - Actual, unduplicated count--Homeless Children and Youth

991 Number of hidden or unreported Homeless Children and Youth

Signature \_\_\_\_\_ Date \_\_\_\_\_



# MONTANA WOMEN'S LOBBYIST FUND

P.O. Box 1099

Helena, MT 59624

406/449-7917

March 10, 1989  
Senate State Admin.

SENATE STATE ADMIN.

EXHIBIT NO. 19

DATE 3/10/89

BILL NO. HB 336

H.B. 336  
Recommend: Do Pass

The Montana Women's Lobby strongly supports H.B. 336. Food and shelter--the basics of life. In every community in our state there is an acute shortage of housing. Just locating housing, let alone acceptable housing, can be a major problem for our families. One has only to check the classifieds to see how prevalent this discrimination can be. (Great Falls Tribune - 3/10/89)

It is common to find "no children", "no pets" linked together in housing ads. Is it really the intent of public policy to link our children, our pride and joy, with animals? No wonder some children grow up with stunted self esteem.

There are 207, 524 families in Montana. 4%, or 3,074, of those families are single female-headed households. There are 448,349 children under 18 living in Montana. There are 13,854 families with children under 18 living below the poverty level in Montana. These are the families most effected by housing rules which discriminate against children. It is difficult enough for these families to find any housing in their price range, let alone be handicapped by a discriminatory exclusion.

Why is it that landlords may exclude children from consideration for rental property? It is because we assume children will destroy property? Do we assume they will disturb other tenants? Do we assume families with children are less responsible than families without children? As a mother of four, I can assure you that I would rather live next door to my children than a lot of single adults that I know! (For one thing, they go to bed at 8 p.m.).

With good management techniques, landlords can screen out "undesirable" tenants by checking references or requiring a reasonable deposit. This law is a good one. It protects the elderly and allows landlords reasonable discretion. It is required by changes in the federal Fair Housing act.

The Montana Women's Lobby urges you to allow families the chance to prove themselves. Don't discriminate against our children, give a do pass recommendation to H.B. 336.

EXHIBIT NO. 20

DATE 3/10/89

BILL NO. HB 336

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 Artman DATE: 3-9-89

Address: P.O. Box 1707  
Helena

Phone: 442-5761

Representing whom?  
MT Catholic Cong

Appearing on which proposal?  
HB 336

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 21

WITNESS STATEMENT

DATE 3/10/89

BILL NO. HB336

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:

YVONNE DARCY

DATE:

MARCH 10, 1989

Address:

515 1/2 West Babcock

BOZEMAN, MT 59715

Phone:

585-9631

Representing whom?

Gallatin County - Bozeman Housing Coalition

Appearing on which proposal?

H.B. 336

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:

Yes, in memo.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

EXHIBIT NO. 22

DATE 3/10/89

BILL NO. HB 336

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: Johnnie Thur

DATE: March 10, 1989

Address: 226 E Koch

Bozeman MT 59715

Phone: 587-3791

Representing whom?  
Bozeman Housing Coalition

Appearing on which proposal?  
HB 336

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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WITNESS STATEMENT

EXHIBIT NO. 23

DATE 3/10/89

BILL NO. HB336

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: Marcia Youngman DATE: 3-9-89

Address: 1214 W. Koch Bozeman 59715

Phone: 587-5704

Representing whom? ~

Appearing on which proposal? HB 336

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 24

DATE 3/10/89

BILL NO. HB144 *ps*

Testimony of Representative Nelson on HB 144

Chairman Farrell and members of the Committee, for the record I am Representative Linda Nelson District 19 from Medicine Lake, Montana.

I come before you today as chief sponsor of HB 144.

This is a simple bill, that improves the operations of state government, makes a lot of sense and therefore deserves your favorable consideration.

HB144 is a bill that places the Secretary of State on the State Records Committee.

For the purpose of background the State Records Committee is a committee comprised of designees from the Attorney General Office, the legislative Auditor Office, the Historical Society and the department of Administration. The records committee functions as a watch dog over the Montana state records. The primary function of the committee is to review records prior to their disposal to ensure that nothing of value is lost and to monitor retention requirements for agencies. Each entity serves a separate purpose. The Attorney General's Office reviews records for their legal

content and necessity. The legislative Auditor's office reviews the records for their audit value and necessity. The historical society reviews records for their historical significance. The representative from administration provides insight into the administrative value. The Secretary of State's office if placed on the committee would serve on the committee because it is constitutionally and statutorily responsible for filing and safeguarding the official records of the State of Montana.

I offer you the following reasons for placing the Secretary of State on the Records Committee:

1. As before mentioned the constitutional and statutory duties of the Secretary of State require him to maintain the official records of the state of Montana. In order to provide consistency in the laws it makes sense to place the chief records keeper on the records committee.
2. The Secretary of States office receives and files tens of thousands of documents each year. The volume of documents handled by the Secretary of States office dictates the inclusion of the Secretary on the committee.
3. Most states having an effective records program, with a similar type of committee, have their Secretary of State serve on the committee.

4. Members of the Records Committee are either in favor or not in opposition to the inclusion of the secretary of state on the committee.

5. Lastly, this legislation carries no fiscal impact.

For these reasons I urge you to give HB 144 a do pass recommendation. This bill is good government legislation. By placing the Secretary of State on the records committee the State will receive the benefit of that office's expertise in records management. It will also increase the communication between officials who are responsible for the safe keeping, handling and destruction of state records.



SECRETARY OF STATE  
STATE OF MONTANA

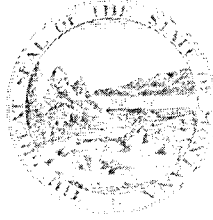
SENATE STATE ADMIN.

EXHIBIT NO. 25

DATE 3/10/89

BILL NO. HB 144

Mike Cooney  
Secretary of State



Montana State Capitol  
Helena, Montana 59620

Testimony in Support of HB 144  
Presented by Garth Jacobson  
Before the Senate Committee on State Administration  
March 10, 1989

Mr Chairman and members of committee, I am Garth Jacobson, representing the Secretary of State's office. I am here today testifying in favor of HB 144.

This is a simple bill which places the Secretary of State on the state records committee. The reasons for the bill are as follows:

- 1) Most states which have this type of committee, have the Secretary of State serve on the committee.
- 2) The Montana Constitution, article VI section 4(3) and section 2-15-401 Montana Codes Annotated require the Secretary of State to perform the duty of maintaining the official records of the state of Montana.
- 3) The present members of the committee are either supportive of the having the Secretary of State on the records committee or they are not in opposition to this change.
- 4) The office offers to the records committee the working knowledge of dealing with large numbers documents. For example the office receives for filing over 80,000 UCC liens documents each year. The corporations bureau handles over 45,000 active business files with over 38,000 filings made each year. The elections bureau files thousands of official documents each year not to mention the administration of files that contain the names of over 12,000 notary publics. These numbers demonstrate the expertise the office has in records keeping.

Therefore it makes sense to place the Sec. of State on the records committee. I urge your approval of HB 144

EXHIBIT NO. 26  
DATE 3/10/89  
BILL NO. HB 77

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:

Robert M Clark

DATE:

March 10, 1989

Address:

Interim Director  
Montana Historical Society

Phone:

444-4706

Representing whom?

agency

Appearing on which proposal?

HB 77

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:

and to provide information.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

EXHIBIT NO. 27

DATE 3/10/89

BILL NO. HB 77, HC 317

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: J. Kay Bell

DATE: March 10

Address: 145 Weymouth

Phone: 363-3834

Representing whom? Rel. Memorial, MACSS

Appearing on which proposal? HB 77, NB-317

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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EXHIBIT NO. 28

DATE 3/10/89

STILL NO. HB317

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 Senn

DATE: 3/10/89

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Representing whom?  
Teachers' Retirement Board

Appearing on which proposal?  
HD 317

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
see exhibit #29  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

ADMIN.  
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317 pg 2  
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SENATE STATE ADMIN.  
EXHIBIT NO. 29  
DATE 3/10/89  
BILL NO. HB 317 pg 1

1989 HB 317  
TESTIMONY  
TEACHERS' RETIREMENT BOARD  
David L. Senn

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 compensation; defining any amount in excess of the limit as termination pay; amending Section 19-4-101 (5); and providing an effective date."

Under the TRS are based on a formula using years of service and average final compensation. These are the only factors in the formula. Past legislation has required funding accumulation of additional service credit. Now the Board is faced with the task of trying to fully fund benefits when a member receives additional compensation just prior to retirement. The average is based only on the member's highest 3 years earnings, the increases we have experienced are great to be subdued when averaged over only 3 years.

This bill addresses the unfunded liability the Teachers' Retirement System incurs when a member retires immediately after receiving a substantial increase in salary. The problem is caused when the retiree has not contributed into the system long enough to fund the benefits his new salary will provide. The solution proposed by HB 317 would require the employer and employee to contribute the extra money in order to fund the new liability. This bill does not require the retiree to take any cut in benefit.

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 salary 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 member may not exceed the preceding year reported by more than 10%, except as provided by rule by the retirement board. An exception would be made for increases in excess of 10% for increases that, from collective bargaining agreements, have been granted by the employer to all other similarly situated employees or have been received as compensation for summer employment. Amounts in excess of the limit established, will be considered termination pay. Under the provisions of the Teachers' Retirement Act, a member 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

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EXHIBIT NO. 30

DATE 3/10/89

BILL NO. HB317

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 Evenson DATE: \_\_\_\_\_

Address: 33 S East chance Gulch

Phone: 444-6570

Representing whom? Mt University System

Appearing on which proposal? HB-317

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: March 10, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Bill Steele	Retired Police	HB604	X	
CHARLES BICSAK	" "	HB604	X	
Tim Shanks	GFPD	HB604	X	
Earl D. Kelley	Ret. Police	HB604	X	
David Sear	Teachers' Retiree	HB317	X	
GEORGE OCHENSKI	SELF	HB270	X	
Garth Jacobson	Sec of State	HB144	X	
Frank Cole	Miss. Police	HB604	X	
G. LEE MELTZER	Missoula P.D.	HB604	X	
Clayton A. Gregory	Missoula Police	HB604	X	
James J. Cole	Miss PD Retired	HB604	X	
Dwight Marshall	Dept of Admin	HB604	X	
Nadrian Jensen	AFSCME	HB604	X	
William J. Jackson	Self	HB336		X
Anne MacDugue	Human Rights Coun	HB336	X	
Moria Hermann	MT Cultural Adv	HB77	✓	
Nancy Day	MT Women's Lobby	HB336	✓	
John Arthur	MT Catholic Cong	HB336	✓	
Margaret Spinks	UNVMT	HB267	X	
Dee L. Goode	Common Cause	HB267	X	
J. Kay East	Al. Peruvian	HB-774	X	
	MACSS	HB317	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: March 10, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Mary Bryson	Leg. Auditor	HB 270	✓	
Russ Brown	ht Demo Party	HB 267	✓	
Scott Turner	Yellowstone County	HB 264	✓	
JoAnne Thurp	<sup>Bozeman Housing Coalition</sup> Gallatin County	HB 336	✓	
YVONNE DARCH	<sup>Bozeman Housing Coalition</sup> GALLATIN County	H.B. 336	✓	
Virginia Jackson	MLIO	HB 336	✓	
Marion Ferguson	AAU. Bozeman	HB 336	✓	
Phil Campbell	M.E.A	HB 317	✓	
Dave Frewson	University System	HB 317	✓	
John MacFar	M.F.T	HB 317	✓	
Terry Menow	M.F.T	HB 317	✓	
Mike Trevor	Dept. of Admin	HB 270	✓	