

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIR JAN BROWN**, on February 14, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Jan Brown, Chair (D)
Vicki Cocchiarella, Vice-Chair (D)
Beverly Barnhart (D)
Gary Beck (D)
Ernest Bergsagel (R)
Fred "Fritz" Daily (D)
Ervin Davis (D)
Jane DeBruycker (D)
Roger DeBruycker (R)
Gary Feland (R)
Gary Forrester (D)
Patrick Galvin (D)
Harriet Hayne (R)
Betty Lou Kasten (R)
John Phillips (R)
Richard Simpkins (R)
Jim Southworth (D)
Wilbur Spring (R)
Carolyn Squires (D)

Staff Present: Sheri Heffelfinger, Legislative Council
Judy Burggraff, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

CHAIR BROWN announced that the House would be going into session at 12:30 p.m. She would like the Committee to be over by 11 a.m., at the very latest. She requested the Committee take action on Reps. Harpers' and Phillips' military bills.

CHAIR BROWN stated that since HB 553 and HB 661 are so similar, witnesses could testify on both bills at the same time.

CHAIR BROWN advised the Committee that the Speaker had requested that HB 553 and HB 661 be sent to a subcommittee where they will take a further look at some questions raised by Rep. Simpkins and the cost of the bills. The subcommittee members will be: Rep.

Davis (Chairperson), Rep. Galvin, Rep. Barnhart, Rep. Hayne and Rep. Simpkins. Following the Committee's actions, the bills will go to Appropriations.

REP. GARY FORRESTER said the State Pay Plan Subcommittee would meet the next morning at 7 a.m. in Room 312-1. Sheri Heffelfinger would have the agenda prepared by the afternoon.

REP. SQUIRES, the chair of the Campaign/Election Reform Committee, announced they would meet at 12 p.m., March 15, in Room 312-1. **CHAIR BROWN** asked if it would be the wish of the Subcommittee that HBs 632 and 633 be assigned to the Subcommittee since they deal with the same issues. **REP. SQUIRES** said she had personal feelings about both bills and would like to amend HB 632. Her personal feeling on HB 633 would be to take action on it. **CHAIR BROWN** assigned HB 632 to the Subcommittee.

Lynn Brewer and the Malta 5th grade students were welcomed to the Committee.

Rep. Roger DeBruycker was thanked for the treats.

HEARING ON HB 553

Presentation and Opening Statement by Sponsor:

REP. DAN HARRINGTON, House District 68, Butte, introduced HB 553 to provide a guaranteed annual increase in monthly benefits paid by the Teachers' Retirement System (TRS). Under the bill, the teacher will begin to receive a 2 percent per year retirement adjustment on the fourth year of their retirement. Some retirees, especially those that retired before 1975, are facing some problems living on their present retirement income. It has been very hard for those that had to retire before they were able to receive social security. "The fiscal note is not really true. The cost (to the system would be) really more than that." He distributed an amendment stating that the contribution would come from the General Fund. **EXHIBIT 1**

Proponents' Testimony:

David Senn, Director, Teachers' Retirement Board (TRB), said there is a small operating cost on the fiscal note to the TRS for programming in order to put the mechanism in place. TRS expects the benefits will increase to \$862 thousand the first year and to \$1.7 million the second year. That will be a 2 percent increase for those people who have been retired for three years. More people are retiring at age 55 than 65. The last item on the fiscal note would impact the General Fund by \$374 thousand. The cost of the bill in the first year will be \$17,432,296. The second year the cost will be \$13,178,216. He has been asked by many Legislators why it would cost \$12 million to provide an \$800 thousand increase in benefits the first year. "This is not just

a one-time cost, it will continue every year for the life of the individuals. (He gave the following example.) If we were to go to an insurance company and ask if we were to provide everybody in this category with a 2 percent increase and ask them how many dollars we would have to have, they would (respond) about \$7 million dollars. It would cost \$7 million to provide that 2 percent increase for the rest of their lives. Not only will TRS provide them with a 2 percent increase per year, they will compound it every year. The fund is not only for current retirees, the remainder of the fund available is required for all future retirees. Everyone coming through the TRS, as they retire, will be able to receive a small cost-of-living increase. The second year the cost will more than double. TRS will spend \$862 thousand the first year, the second year, \$1.7 million. This is over a \$900 thousand increase in just one year. This is a very expensive proposal because we have done nothing for so long. There have been only nine increases since 1969, that is not quite one every Legislative session. The increases have not approached the cost of living and they have been very modest. "Now (TRS) would like to increase benefits systematically . . . in a cost-effective way on an automatic basis. . . . This is the cheapest they will ever be. They will never get less expensive."

Tom Bilodeau, Research Director, Montana Education Association (MEA), presented written testimony. EXHIBIT 2

Mike Paterson, MEA, Billings, said he probably was "the key reason" the Committee was hearing the bill. He is angry because he found out that his senior English high school teacher, who he had in 1958, died on welfare. She taught for over 48 years. Because the Livingston district did not have social security, she was without it. She was frugal, invested carefully, and had a significant savings. In her older years her nephew managed her savings, and "he managed it right down to zero." She retired at age 63, but with the lack of adjustments for inflation, she needed welfare assistance in her later years. She died at 92. Because of this he asked the MEA to do something. All teacher retirees he has spoken to are hurting for various reasons. "A good rule of thumb is this. Without adjustment, your retirement halves every decade. That is what it boils down to. They retire at half pay; in ten years it is quarter; in twenty years it is 12 percent. That is really very, very serious."

Pat Carter, Flathead Valley, Retiree, said she was a native-born Montanan. She raised two children with no support while receiving her two-year education degree. She worked for \$3,600 the first time she taught. She received small increments each four years and then stayed frozen until she earned a 4-year degree ten years later. She taught 25 years; retired 3 years ago in April due to serious health problem. She has a bad back and hip. The doctor told her no more pressure and full-time work as she cannot lift over 20 pounds. This, and the age factor, has made it difficult to find part-time work. She competes with 250 substitutes for teaching jobs making it difficult to find work.

She has five music students and competes with 50 teachers in her area for students. She was hired 1.5 years ago at the North Valley Hospital as a ward clerk until they made cuts last April. Prior to that time, she had been guaranteed 2 hours of work each day which supplemented her income. Now she is lucky to get 2 to 4 hours per month. Finding work adds to stress which "cuts (her) life in half." She rents and has no medical insurance because she cannot afford it. She is hyperglycemic, with medical costs of \$150. Often she will not see a doctor because funds are not available. She had a poisonous bite from a spider last summer and had to take cortisone shots and extra medicine have added to the problems. She is working on her teaching certification again which is costly. There have been no cost-of-living (COLA) increases since she retired three years ago. She receives \$922 gross; federal taxes are \$100. If someone takes \$5 to \$10 from her, she is destitute. At the very most, her income -- including outside sources -- would be \$1,000. Most often it is \$925. There are many retirees in similar circumstances. She is community minded and active. "I find it depressing, frightening and the most scariest thing I have ever been through when you can't meet basic needs and inflation is taking it away from you. I am six years away from social security. I want to feel safe and secure after working so long."

Gene Huntington, Retired Teachers' Association (RTA), said RTA supports HB 553 because it provides "the beginning of a system that recognizes that we haven't kept up with the cost of living and providing benefits to retired teachers. There are 6,600 members in RTA. Thirty-six hundred of those people have benefits that are \$4,200 or less; a large number of people are at the lower end of the scale. This is not a COLA allowance although it would begin to provide some systematic way of making sure that the cost of living is addressed, although minimally, in some way by the Legislature.

Terry Minnow, Montana Federation of Teachers (MFT), said MFT is strongly in support of HB 553. "This is a very necessary and a long-overdue bill."

Ed Sheehy, Legislative Chairman, National Association of Retired Federal Employees, said his organization supports HB 553 and urged its passage.

Loran Frazier, School Administrator's of Montana, said his organization supports HB 553. ". . . health insurance alone, takes over \$2,400, a year, just to pay the premium for a family." They are at an age where they need health insurance more desperately than most. "We urge you (to) consider . . . a plan that will help these people on fixed incomes to overcome some of the burdens that the '90's will bring."

Opponents' Testimony: None

Questions From Committee Members:

REP. RICHARD SIMPKINS asked if there would be another retirement bill to set this increase up as a true retirement plan where (the retired teachers) will see a greater ratio increase in state contribution, as well as increase in the employee contribution, to build up the amount. REP. HARRINGTON answered, "There is some talk that this will be for two years. . . . "Possibly down the road . . . the teachers . . . , through their own (payroll) deduction and district deduction there possibly could be help to this because of the fact that there is such a large cost. Right now . . . what you see, is what you've got. This is what we are going to go with." REP. SIMPKINS said he is always bewildered by the number of retirement plans the Legislature deals with every session. He questioned whether there was a way to set up a retirement plan with a quota built in with actuarially set rates paid by the employee and the employer so that when a person retires there is an accumulated "side fund" built up and deposited into a federal retiree program?" Mr. Senn said, "Yes, . . . this particular proposal provides for almost 3 percent of salary as a contribution to fund it; that is exactly what you're saying. . . . Increases in benefits. That is what this bill will do. This (increase) happens to be from the General Fund." REP. SIMPKINS asked why these plans have not been set up before for COLA. Mr. Senn said COLA studies were done one interim study in 1985. The study came forward with a plan to address your concerns. It required too many dollars. "We revert back consistently to ad hocs."

Closing by Sponsor:

REP. HARRINGTON said it had been pointed out clearly in the testimony that there is a very serious problem with the TRS and Public Employees Retirement System (PERS). He asked the Committee to look seriously at HB 553 and to give it a DO PASS. "I know it will go to Appropriations. The time is long past when we can ignore the fact that our retirement systems are not doing what they are supposed to do."

HEARING ON HB 661Presentation and Opening Statement by Sponsor:

REP. JAN BROWN, House District 46, Helena, introduced HB 661 "which does the same thing for the PERS retirees as Rep. Harrington's bill that the Committee just heard." The fiscal note was not ready, but it will be addressed in the testimony. Linda King, PERS, will address any questions but will not testify.

Proponents' Testimony:

Dick Williams, President, Retired Montana Public Employees, presented written testimony. EXHIBIT 3

Tom Bilodeau, Research Director, MEA, directed the Committee's attention to materials in Exhibit 2 and noted that one additional strong argument for PERS is that the level of state employee's salaries, including those paid to school classified employees, are far behind the national average. "You end up paying a lifetime penalty in retirement benefits based on depressed wage levels. Basically, your retirement benefit is (derived from) your salary level. Those salary levels are non-competitive and they have fallen off the pace in the 1980's. That in itself is a lifetime penalty that is only exacerbated by the COLA and ad hoc increases to keep up with inflation."

Tom Schneider, Montana Public Employees Association (MPEA), said it is important the Committee understands one of the major problems with the retirement systems in the state is that when the retirement benefit is changed, the benefit is not changed for those that are already retired. He gave the following examples: 1) When he started with TRS in 1956, TRS did not provide half pay with 30 years of service. TRS provided one-quarter pay with 35 years of service and a money purchase with the dollars that the employee had contributed to the plan. That meant in 1956 a retiree with 35 years of service basically retired at about 31 percent of salary. PERS did not have a formula at that time. It was a money-purchase plan, which meant that with about 35 years of service, you would get 27 percent of your salary. We have changed things significantly over the years for current members, but we have made no significant changes for the retirees. The years required for retirement in PERS was reduced in 1989 from 30 years with half pay to 28 years with half pay; "but we did not do anything for those already retired. . . . We have got to do something with retirees. They have been given ad hoc increases to help. There have been three studies to talk about putting systems together and putting automatic increases in the system, but we have always come down to the same point where we are right now. . . . we don't have the money to do it." TRS will help the subcommittee to deal with this bill.

Terry Minnow, MFT, Montana Federation of State Employees, said "We support HB 661. . . . It is a way to begin to address a very serious problem in the state of Montana."

Loran Frazier, Montana School Administrators, said they support the bill basically for the same reasons given in the testimony on HB 533.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

REP. JAN BROWN said, "It is difficult to live on a fixed income . . . The money is a big item. I hope we can do something to address this issue."

HEARING ON HB 577Presentation and Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, introduced HB 577, a bill for military leave benefits for employees ordered to active military duty. He said the last time the state dealt with this issue was about 25 years ago. All states have made provisions for the two-week summer camps for the reservists. We have approximately 40 thousand reservists from the U.S. who have been called to serve in the Persian Gulf. Many reservists are state employees. This has caused the states to once again "grapple" with the issues of how to handle pay and benefits. A state employee reservist is affected by both federal and state laws. There are a number of federal laws that have minimum criteria that public and private sector employees are required to meet. However, employers can go beyond the criteria and do a better job for our reservists. The idea behind the bill is to make the reservists "whole" when they return by lessening the impact their service has on them. Federal law provides for salary according to their rank. Employers are not obliged under federal law to compensate reservists in any way for their lost salary. In terms of medical care and health benefits, the military will provide care. The employer is not obligated to make medical insurance coverage payments. The reservists' family will be covered, if the order to active duty extends for more than 30 days, by the federal government through the Comprehensive Health and Medical Program for Uniformed Services (CHAMPUS). When the reservist returns from active duty, their insurance must be reinstated by the employer. The Veteran Reemployment Law, Title 38, Ch. 43, provides for the right to return to employment. One area of concern is the Sailors' and Soldiers' Relief Act of 1940 (SSRA). This law was enacted to prevent foreclosure on loans and eviction from housing. There are now situations where reservists serving in the gulf are unable to make mortgage and loan payments. "My opinion, is that we are probably having trouble with enforcement (of SSRA)." Rich Brown, Administrator, Veterans' Affairs Division (VAD), told him of these problems. He has talked to the Mark Racicot, Attorney General (AG), to see about enforcement of SSRA. The AG's office has no extra staff to work on this enforcement. The Committee should look into making sure that there is some support for strict enforcement of SSRA. SSRA is supposed to provide that someone on active duty can terminate their leases without a penalty and that person is protected against a mortgage foreclosure if he can demonstrate that the ability to pay has been materially affected by service. If their rent is less than \$150, they are not to be evicted. John Hutchinson, Commissioner of Higher Education, has looked into

what students do when they are half-way through a quarter. Mr. Hutchinson said they have taken care of all of the problems that they are aware of. "They are bending over backwards to make sure that they are taking care of these people." Other states' provisions have been checked. Many states have military leave without pay; a few states have supplemental pay. Supplemental pay is the difference between the pay that you would have received working for the state and the pay you receive while on duty. Rep. Harper is receptive to Rep. Phillips' and Sen. Pinsonneault's HB 734 approach. HB 577 provides 30-working days pay as opposed to 30-calendar days. It would give 30-days accrual of sick leave and annual leave and allow one-quarter rate for accrual for those benefits after that period of time. This would be much more generous than we have now, although not as generous as some states. Most jobs are vacant, so the state and the county should be able to absorb the impact. There is an amendment that needs to be made and there may be others. There are provisions that provide for conversion of insurance policies. There may be some problems with those provisions. He is only asking that reservists be covered in a satisfactory manner. The title states that the bill will apply to state, city and county people. Pg. 1, Ln. 18, 2-18-701, RCM, does not include city and county employees. He would prefer that the benefits, the Legislature decides on, apply statewide and be uniform.

Proponents' Testimony:

Rich Brown, Administrator, Montana VAD, Commander, Montana American Legion, requested passage of the bill and expressed thanks to Rep. Harper for his inquiries to the Montana National Guard. Their legal staff just opened up a new office yesterday to help the guard and reserve personnel, regardless of their branch of service, with problems relating to SSRA. Many provisions in the SSRA are very archaic and are being dealt with now on a federal level. He said there are eight field offices of the VAD within the state handling financial complaints, almost on a daily basis, from spouses of individuals serving in the Persian Gulf. There are problems with the federal government's dental plan, Delta, for individuals on active duty. The has some severe restrictions, such as a long waiting period.

Robert VanDeVere, concerned citizen lobbyist, said he agrees with HB 577. "It took the government 45 years to make Merchant Mariners veterans, I know it won't take this committee that long to get (this bill) figured out."

Don Judge, Montana State AFL-CIO, said AFL-CIO supports both HB 577 and HB 734. He presented written testimony. **EXHIBIT 4**

George Poston, retired military member, United Veterans' Committee of Montana, stated his life has been uprooted many times in "situations such as this." There is never enough money to cover the unusual expenses that come up, especially for family members. The spouse, who is left behind, needs to get someone to

help. Usually there is a fee connected with that help. This bill, in a small way, help to take care of that; HB 734 will also help.

Joyce Brown, Department of Administration, said the Department is not taking a position on the bill but offered some "friendly amendments." Amendment No. 1 basically speaks to the definition of an employee that Rep. Harper mentioned in his testimony. No. 2 and 3 refer to life insurance. The amendment would strike Sect. 5 and Sect. 8 in their entirety. The Department proposes they be stricken because the Insurance Commissioner's Office currently regulates life insurance in this regard; current state statute requires companies that sell life insurance within the state to offer a conversion plan. That is now being done, and all state employees have the right to convert to an individual plan with no war exclusion clause. Therefore, it is not necessary to have these two sections in the statutes. EXHIBIT 5

Mark Langdorf, Field Representative, American Federation State, County and Municipal Employees, said, "We rise in support of both Hbs 577 and 734." He attended a local meeting yesterday with janitors from Helena School Dist. No. 1. Four janitorial employees have been put on notice that they could be called up at any time for active duty. He wished to convey those four employees' concerns and requested they be provided for in the bill.

Opponents Testimony: None

Questions From Committee Members:

REP. BEVERLY BARNHART questioned if it was the intent to include towns in the bill. REP. HARPER said it was their "intent to cover those people."

Closing by Sponsor:

REP. HARPER said that one of his constituents wrote in the Letters to the Editor in THE INDEPENDENT RECORD that HB 577 was unnecessary. Rep. Harper is going to call that person and try to reason with him. "Not only is this bill necessary, it is morally the only right thing to do. In many cases . . . these people are making large monetary and personal sacrifices to serve this country. This is the least we can do." He became involved in the bill when Capt. Robert Bean called him just prior to his unit leaving for the Persian Gulf. Capt. Bean informed him of the many problems as he perceived them, and sent him handwritten notes listing the problems. He thanked the Department of Administration and others for working on the bill. "When you put this together with Rep. Phillips' bill, we will have a package that we will be proud of."

HEARING ON HB 734Presentation and Opening Statement by Sponsor:

REP. JOHN PHILLIPS, House District 33, Great Falls, introduced HB 734 to establish an active duty military leave with supplemental pay status for state employees called to active military duty as a result of Operation Desert Shield and Operation Desert Storm and to provide that a state employee in that leave status must receive supplemental pay if his salary on active military duty is less than his state salary. HB 734 takes HB 577 one step further. HB 734 is limited to state employees, but he hopes it will filter down to everybody else. Bob Gannon, Montana Power Company, said that the power company already is (supplementing pay) as are several other major companies in the private sector, such as Conoco and Dupont. HB 734 is limited to state employees because the state has already budgeted all employee slots until July 1. Right now the state is making money on those serving in the Persian Gulf because most "of those desks are sitting empty and waiting for someone to come back. I honestly don't think it is going to cost hardly anything." He apologized for not having a fiscal note but hopes to have it before the Committee takes executive action. Rep. Jerry Driscoll mentioned to Rep. Phillips that he thought it would be wise to incorporate the continuation of employer contributions to retirement benefits in the bill.

Proponents' Testimony:

Rich Brown, Administrator, Montana VAD, State Commander, American Legion, asked that HB 734 be passed as soon as possible. Rep. Phillips and the cosigners of the bill have done a tremendous job of supporting the troops in the Gulf. The bill will help their families solve some of their financial problems, he said.

George Poston, United Veterans' Committee of Montana, retired military member, said the relief of monetary stress will help some for those who are serving and trying to do a good job. "If they're worrying about their families at home, it takes up part of the brain power needed to do a good job over there. That kind of thing could and does lead to casualties."

Don Judge, Montana State AFL-CIO, thanked Reps. Harper and Phillips for introducing "this good kind of legislation."

Opponents' Testimony: None

Questions From Committee Members:

REP. PATRICK GALVIN said he would like to have "from release of active duty" rather than "at the time of honorable discharge" in Sect. 7 of the bill. REP. PHILLIPS said that he had thought of that. Rep. Harper's bill probably has that in it. "We could do it two ways. . . . The administration could have a budget supplement." The state is not budgeted beyond July 1. If there

was a long, drawn out war, we might have to re-examine this policy. He thought there were only 67 state employees involved in (the bill). He would "be amenable to continuing the (provisions of the bill) for the troops in the Gulf who are eating sand and dodging bullets."

Closing by Sponsor:

REP. PHILLIPS said it is a terrible strain for someone in the Gulf thinking about their families who are having problems. There is not a lot of money involved in the bill; it should be easy to calculate. He asked the Committee to consider the state paying the employer's share into the retirement fund.

HEARING ON HB 632 and HB 633

Presentation and Opening Statement by Sponsor:

REP. VIVIAN BROOKE, House District 56, Missoula, requested that HB 632 and HB 633 be heard at the same time. HB 633 would generally revise the disclosure of conflict of interest law and rules of conduct for Legislators; require disclosure of a conflict of interest and prohibit a Legislator from lobbying within two years of leaving office. She distributed a study entitled, "Through the Magnifying Glass," an analysis of Montana's governmental ethics laws. EXHIBIT 6 There are references in her testimony to the document. The bills are companion bills. In March, 1990, Greg Petesch, Legislative Council, conducted a study, (exhibit 6) which identifies several defects in Montana law and offers some guidance to resolve those defects. Article 13, Sect. 4, Montana Constitution requires the enactment of ethics legislation. It says: "Code of Ethics, the Legislature shall provide a Code of Ethics prohibiting conflict between public duty and private interest for members of the Legislature and all state and local officers and employees." On Pg. 2 of the report, Mr. Petesch points out the reasons for ethics laws. (See Pg. 2 beginning with "The purpose for governmental ethics laws") On Pg. 3 and 4, Mr. Petesch outlines the history of the conflict of history laws. In summary, the Legislature enacted in 1977 the legislation to pass ethics laws. In the early 1980's, the secretary of state attempted to implement an Ethics Commission to issue advisory opinions. This activity was later deemed an unconstitutional delegation of Legislative authority. No additional actions on conflicts of interest have been done since that time. Mr. Petesch points out in his study on Pg. 4 (beginning with "If the Legislature decides to") the need to address conflict. The bill has been divided into two bills. HB 633 is to address the conflict of interest for Legislators, and HB 632 is to address conflict of interest for public officials. HB 633 does three things: 1) it expands the definition of what constitutes a conflict of interest based on the Petesch study found on Pgs. 6 and 7; 2) it requires mandatory disclosure by Legislators when

they perceive a conflict of interest. (This idea is taken from the British system, which only requires disclosure of a conflict and not mandatory withdrawal from voting. This reform seems fitting to Montana's part-time Legislature.) 3) requires a cooling-off period for Legislators from lobbying. (This is from the Petesch study on Pg. 7 where Connecticut enacted legislation prohibiting lobbying by Legislators, the governor and the governor's staff in the year following their leaving office.) The bill expands this to two years because Montana's Legislature only meets every two years. HB 632 is more involved and it addresses public officials. It deals with enforcement and establishes a two-year cooling-off period for public officials before they can represent a private interest before the private agency that employed him/her on matters in which the former employee was personally and substantially involved. It also provides for penalties for violation, a reprimand or suspension; it provides for moving the issuing of advisory opinions and enforcement from the Secretary of State's Office to the Commissioner of Political Practices' Office (CPP). This would resolve the "most glaring defect" in the Montana law -- enforcement. (This is pointed out in the Petesch study on Pg. 7.) The bill describes the mandatory disclosure of conflicts of interests and provides for the CPP to conduct educational programs and to publish a practical guide to assist public officials to understand the ethical principles of conflict of interest requirements. (This is suggested in the Petesch study done by the state of Alabama.) It provides for more exact information for public disclosure.

Proponents' Testimony:

C. B. Pearson, Executive Director, Common Cause/Montana, presented written testimony. EXHIBIT 7

Opponents' Testimony:

Jim Jensen, representing himself, stated he only wanted to discuss one portion of HB 633, Pg. 4, Lns. 24 and 25, "where a Legislator may not within two years of leaving office be licensed as a lobbyist." He lobbied before and after he was a Legislator. "I don't see, frankly, . . . where there is a problem with people who have served in the Legislature (and subsequently left the Legislature, either voluntarily or otherwise) coming back to lobby" He thinks no problem exists and could think of no "example where there has been an allegation of ethical misconduct against any of those former Legislators." He thought the rest of the bill made sense.

Don Judge, Executive Secretary, Montana State AFL-CIO, presented written testimony. EXHIBIT 8

Mike Micone, Commissioner, Department of Labor and Industry (LI), appearing for himself, said he commends the intentions of the sponsor. However, he agrees with the previous speakers that the

proponents are attempting to resolve a problem that does not exist. Specific to HB 632: Some of the language is vague insofar as defining a private interest. He said he did not understand what it means where the bill addresses "a former officer or employee of the state representing a public interest where they were substantially involved in public employment." For example, would it be a "substantial interest" if an individual -- who was working for job service -- left state employment and went to work representing an interest that may be concerned with unemployment or wage and hour issues? Or would it be "substantial interest" just because they work for the Department of LI? "I think that is vague and will cause a lot of problems in the enforcement of (the statute)." He primarily objected to the section that states "that any public official and Legislator cannot register as a lobbyist for two years." He was not sure what the "cooling-off period" is for. Prior to being a Commissioner of the Department of LI, he was interested in environmental and economic issues that came before the Legislature. "How that has anything to do with my decisions with the Department of LI, I don't know. ". . . should I be penalized because I happen to be a public official for a few years (by) . . . not (being allowed to) lobby for anyone?" He did not think that Legislators, just because they had "acted on every issue that you could possibly think of," should be excluded from lobbying either. It has been implied that "lobbying is not an honorable profession. I think I take offense to that." Lobbyists provide the Legislature with valuable information to make decisions. As a public official, he did not object to the filing of financial statements in HB 632 but opposes the other provisions.

Tim Reardon, Judge, Workers' Compensation, appearing for himself, said he was on annual leave. He said he wanted to join the comments of the other proponents when they said, "It appears to be a solution in search of a problem." He had not read Mr. Petesch's study regarding conflicts of interests and commented that he should probably have read that before testifying. He limited his remarks to the provision in HB 632 that purports to amend title 2, Ch. 2, Part 104, (3) which adds a new subsection dealing with public officers or employees who may not within two years following the termination represent a private interest or the agency that employed him on matters in which the former officer or employee was personally or substantially involved. "Terms like 'represent' and 'personally and substantially involved' are lawyer terms. Lawyers fight about those terms all the time. They make a lot of money fighting about terms like that. I frankly don't know what they mean. I have spent the last ten years as a Workers' Compensation judge trying to construe legislation, and words like that are wide open to all kinds of interpretation. . . . As I read this legislation, I could represent someone before the Workers' Compensation Board or before the Montana Supreme Court, but it is very questionable as to whether I could represent someone before the Department of LI. An administrative contested case hearing is not only in the

specific field of workers' compensation but in all areas of government. . . . They include every public interest -- lands, water, natural resources . . . all . . . have contested cases and administrative-type proceedings. This essentially creates problems. When you're talking about separation of powers for lawyers, for example, when you see the term 'represent,' it leaves me to believe right away we're talking about lawyers. You may be looking at who is running the legal profession, is this a legislative or judicial issue and those kinds of concerns. There is a an awful lot of loose language in that particular section that accomplishes nothing that is not already a part of the law. I don't think any state employee who garners information, due to his or her employment, should or can now leave employment and represent an adverse interest relying or utilizing that 'insider' information."

Don MacIntyre, state employee for 17 years, attorney, Department of Natural Resources and Conservation (DNRC), appearing for himself, said he was on leave. His problem with HB 632 was specifically with the same area Judge Reardon covered in his testimony. His employment takes him into the area of being "personally and substantially involved with probably everything DNRC does." He has constitutional problems with the Legislature telling him that once he severs his employment that he would be barred from practicing in an area where he has a specialty. He is aware of many occasions with the DNRC where attorneys have left the employment of the state and within two years have come back to represent clients before the DNRC in adverse matters. An attorney, who has worked for the state, can more effectively represent the client since he has a working knowledge of the Agency. In a water rights matter, the attorney represented the client at a cost of approximately \$1 thousand; the other party represented by an attorney who had never worked for a state agency charged his client \$10 thousand. That is a 10 to 1 ratio. The attorney, who was able to charge less, had specialized knowledge and did not have to research every administrative decision that had been; he was more valuable to the client and it was more cost effective to the client. Another problem with the bill is that you would be telling Mr. Reardon, that once he separated his employment and no longer had a trust relationship with the state, he would be breaching that trust. "Montana isn't like Washington, D.C. The people who work in state government are good people. We're finding now that people are tending to stay longer with state government, but they do leave. When they do leave, you would be telling them that for two years they would have to cool off. . . . I don't need to cool off for two years, I need to feed my family. This bill prevents me from effectively doing that."

Questions From Committee Members:

REP. JOHN PHILLIPS said he resents a Legislator being accused of being full of deceit and corruption. He asked if Mr. Pearson had ever seen any evidence that would indicate that a former

Legislator was doing "anything outside the normal course of events that go on up here?" Mr. Pearson asked Rep. Phillips to be more specific. REP. PHILLIPS asked, "What problem are we trying to fix? What have the former Legislators done that you would bar them from coming in and being a lobbyist?" Mr. Pearson said the proposal is designed to address a problem seen by other states when Legislators and governors and high-level officials leave public office and immediately go to work for and represent private interests. He then gave an example of when Michael Deavor moved from being involved in the administration to being a lobbyist the next day. Mr. Deavor made a large sum of money when he represented a number of interests before the same agencies in which he had previously represented the public. Mr. Pearson has not personally experienced any wrongdoing. REP. PHILLIPS responded, "Maybe a lobbyist shouldn't be allowed to run for the Legislature because he has represented special interests for several years. And he will . . . use it when he gets in there. Have you thought about adding that to your list?" Mr. Pearson said he has not thought about that. "But if you're interested in the idea, I would be willing to work with you on that."

REP. SIMPKINS said he wanted to thank Mr. Pearson "because on the last page of the testimony you gave us the worst corruption you were able to find in that state. I think that is really great because that doesn't seem too bad. . . . Since (lobbyists) don't wear white and black hats, who are the bad lobbyists out there and who are the good lobbyists, in your opinion? Who are you after?" Mr. Pearson said this bill does not address lobbyists in any degree, it just sets parameters and direction for establishing rules and understanding for both sides of the aisles . . . about conflicts of interest. REP. SIMPKINS said it appears from your literature that one of the main things you are after is to control lobbyists. "I am just trying to identify the bad lobbyists from the good lobbyists." Mr. Pearson said, "When we look at the processes of government, we need to have some sort of procedure so the public . . . interest is represented in the best fashion (and) those that have the most financial power, and the ability to shape legislation, don't dominate the process. . . . We do that with disclosure. The bill the Committee has before it today deals with another philosophical issue. . . . Other states have discussed this issue of revolving door and have established . . . a cooling-off period. Even the federal government is looking at that issue. . . . If . . . you do not think it fits in Montana, that is fine. We didn't advocate the cooling-off period out of nowhere. . . it has been circulating and (was) put forth in the Petesch study. . . . Some ideas in the study can be approved or rejected. . . . Obviously some people are uncomfortable with the cooling-off period. Maybe we should take that section out. . . . We need to insure that we have the rules that public employees can protect themselves and know what the boundaries are."

REP. SOUTHWORTH remarked that he receives a small PERS pension. The Committee hears many pension bills. With this bill, would he

have a conflict? **REP. BROOKE** answered that those issues are resolved by the Legislator's financial statements that have been filed with the CPP. **REP. SOUTHWORTH** asked Mr. Jensen the same question. **Mr. Jensen** responded that "the key is when that kind of potential conflict arises, you as Legislators, have the opportunity and are obligated to disclose that potential exists. It doesn't mean you don't vote on the issue, but you need to disclose that." He stated former Rep. Harrison Fagg, who had extensive business interests that related to the state of Montana in his architecture firm, would stand and disclose when the potential existed for a conflict of interest. The Legislators and the people knew of the conflict. "I think that is an important thing to do. There isn't enough of that going on around here anymore. . . . I think Rep. Raney's bill really does deal directly with that problem. We certainly have had this concern with natural resource regulators going to work for those being regulated. That bill has passed the Senate, and I think it will resolve adequately the protection of the employee and also the public's interest in preventing that kind of conflict."

REP. WILBUR SPRING said he is a retired rancher. Does your bill intend that a rancher or farmer would not be allowed to vote on anything pertaining to agriculture? **REP. BROOKE** responded that she appreciated Mr. Judge's analysis that extends the concepts in the bill to the extremes. She agrees with Mr. Jensen that a Legislator should disclose from where their primary resource comes and their primary interest. "I know you're a rancher. I don't think you need to tell me that every time you vote on a bill."

Closing by Sponsor:

REP. BROOKE thanked the Committee for their time and attention. She stated, "This is a difficult area for" Legislators and for public employees. There are scandals nationwide. Montanans have a lot to be proud of. "We have a tremendous open-meeting law that has provided a lot of sunlight into processes . . . (and) we have terrific grassroots' representation. . . . But at the same time, there are areas of concern that HB 632 and HB 633 address. They may be more strict in their interpretation of these concerns than you or the public would like us to be. . . . These are problems that are out there that our constituents have elected us to resolve. . . . I think there are areas that should be out on the table for all of us to discuss. . . . I would recommend that there are parts of the bills that you like . . . (such as) the guidance of the educational programs (which) would bring recommendations to the leadership to put in the joint rules as to how we conduct ourselves and disclose our personal and financial interests."

EXECUTIVE ACTION ON HB 633Discussion:

REP. GALVIN said he thinks that almost everything that makes any difference to any Legislator is already covered by the procedure that must be followed after their nomination. He thought the bill was unnecessary.

REP. GARY BECK said he has problems with the concept that everybody is basically dishonest and we need rules and laws to make sure that we are honest. He respects "everyone I see sitting at this table. I might not always agree with them, but one thing I am sure is that all these folks are honest."

Motion: REP. PHILLIPS MOVED HB 633 BE TABLED. Motion carried 18 - 1 with Rep. Barnhart voting no.

EXECUTIVE ACTION ON HB 577

Motion: REP. ROGER DEBRUYCKER MOVED HB 577 DO PASS.

Discussion:

CHAIR BROWN asked if the Committee should be looking at amending one bill into the other. Sheri Heffelfinger said, "They both stand by themselves." She discussed the amendments saying: "The two amendments (that Rep. Harper mentioned in testimony) are: 1) in the title the bill refers to all state employees, county and city employees. Rep. Barnhart would like to include the word 'town.' The definition in the bill conflicts with the title and refers to employees that cover just the state. If we amend that to employees as defined in 2-18-608, RCM, . . . it would cover the broadest spectrum of employees. 2) a friendly amendment proposed by Joyce Brown, in the benefits division of the Department of State Administration. It is about the benefit language to strike Sect. 5 and Sect. 8 because those two sections deal with mandatory provisions and provisions in the life insurance policy for the military and their dependents." Ms. Brown showed Ms. Heffelfinger where those provisions, in statute, must be administered by the insurance companies that deal with the state. The concern is that if it is put in statute, that future policies would be limited.

REP. SIMPKINS referred to Pg. 2, Ln. 15, of the bill that refers to 30 working days. He questioned if 30-working days would exceed two pay periods. "I think (the Committee) should discuss what we are after, two . . . or four pay periods. It seems like it would be better to put it in pay periods for state employees rather than working days." Ms. Heffelfinger said she talked with Mark Cress when she was drafting the bill regarding the number of days. He said 30-working days is the easiest to administer versus 30-calendar days because 30-working days is six weeks, which is three pay periods.

Motion/Vote: REP. PHILLIPS moved amendments suggested by Reps. Harper and Ms. Brown. The motion carried unanimously.

Ms. Heffelfinger asked for clarification on the amendments. "Do you want to keep the employees as broad as possible in the title or do you want to limit it to state employees." The Committee responded, "Broad."

Motion/Vote: REP. PHILLIPS MOVED HB 577 DO PASS AS AMENDED.

Discussion:

REP. DAILY said he supports the bill, but he is bothered (on Pg. 3, Lns. 6 through 25) where it mentions sick leave and insurance. "My feeling would be that we should provide insurance coverage for those people. I don't think those people should have to pay the full premium" Ms. Heffelfinger said that once the military has been activated they have medical coverage. The dependents are covered by CHAMPUS. The concern is that if you give them leave with pay for 30 days, and then you just want to pay their health benefits, the health benefits are tied in with their salary. It is a component of compensation and the easiest way we could figure to do this would be to give them the 30 days of paid leave. (This) means the employers' contribution would be paid for 30 days. After that, the employee has to pay the full premium as there would be no paycheck from which to deduct the employee's contribution. REP. DAILY said he did not agree with that and he likes Rep. Phillips' bill better because it handles that situation. "I am concerned about those people. One of the most serious problems that all of us face, is health care. If you don't have health-care coverage, you're in big trouble."

REP. SIMPKINS said the military picks up their federal medical coverage as soon as they begin active duty. With that insurance, they would have no deductible on hospitalization coverage; 100 percent coverage for dependents; \$50 deductible for out-patient care; maximum \$100 deductible and then they pay 80 percent. That is better than the state plan. The state will allow those on active duty to keep their dental plan because the military has a "lousy plan called the Delta Plan." "If we give them the (state) medical benefit, CHAMPUS would require the (state plan) to pay first; then CHAMPUS will consider the payment."

REP. COCCHIARELLA said she agrees with Rep. Simpkins regarding the medical coverage, but there is a year waiting period (for anyone leaving the state's medical plan) to qualify for a previous condition. Ms. Brown said, "When an employee comes back on the state plan, we treat them as though they had never left. So if they didn't have a preexisting condition waiting period when they left; they don't have it when they come back. We treat them as a continuing employee."

REP. DAILY suggested amending the bill to give the employee the option to pay the premium on the state plan if they so chose.

REP. PHILLIPS responded that CHAMPUS would begin immediately without any preexisting conditions applying. "I can't visualize anyone on active duty wanting to keep up the (state) plan providing (they) have the option of picking it right back up."

REP. SIMPKINS asked Ms. Brown if there was a provision in the statutes that allows a person to return to the state insurance plan and to be accepted as a continuing employee. Ms. Brown responded, "That is a good question. That is basically policy at this point. I don't know that there is any statute that requires us to do that. We do have a leave-of-absence statute for one year. Anybody on any type of leave, for one year, can come back on the state plan." REP. SIMPKINS asked if it would be appropriate to cover that in HB 577. Ms. Brown replied, "I think that would be appropriate." CHAIR BROWN asked Ms. Heffelfinger if the bill could be amended in that way. Ms. Heffelfinger signified yes.

Motion: REP. SIMPKINS moved to amend HB 577 under Sect. 6 by adding a new subsection (3) "something to the effect that the state must accept them back into the state plan when they return as a state employee without regard to the existing medical conditions."

Vote: The motion carried unanimously.

Motion/Vote: REP. ROGER DEBRUYCKER MOVED HB 577 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HB 734

Motion: REP. PHILLIPS MOVED HB 734 DO PASS.

Discussion:

CHAIR BROWN asked the Committee if they objected to taking executive action without the fiscal note. They said they did not object.

REP. PHILLIPS said he just talked to Joyce Brown regarding the bill. "She has (drafted) a fiscal note." It hasn't been printed. It should say that the vacancy savings would far outweigh the cost of the insurance to the state. "Right now the state is making money off of the slots through vacancy savings." He did have a question regarding the protection of their retirement. Ms. Heffelfinger said she had talked to PERS. An employee cannot be discriminated against (in the retirement system) for the time when they are gone. When the employee leaves, they have the option of continuing their payments into the retirement system. If they do take that option, then the employer pays their contribution into the retirement system. If the employee elects not to continue their contributions into the plan because of the logistical problem of being overseas

and so forth, then when the employee returns they can make the contributions they would have been making if they were still there. The employee puts back into the plan what they would have paid and the employer pays the amount they would have paid. Nothing is lost, except the interest to the plan, which is very minimal. That is required and is being done right now.

REP. COCCHIARELLA stated that if someone were near retirement, their final average salary would be based on that. If the state were not paying that money, then their retirement benefit would be decreased. If they were to receive a raise July 1, 1991, and they are still in the military they would not receive that amount. Their retirement benefit would be less. **Ms. Heffelfinger** responded that the law requires they not lose their seniority. They would receive that credit for any pay raise that would have been given if they had been there. The employer contribution would reflect that raise; they wouldn't lose any benefit at all.

REP. BARNHART said the bill would terminate July 1. She questioned if the job slots would be held open after that date. **Ms. Heffelfinger** answered that the vacancy, by law, would have to stay open. The termination date of July 1 is in the bill because that is when the new budgetary cycle begins. The Appropriations for the pay plan will kick in on July 1 and will be based on budgeted full-time equivalents (FTE). If those FTE's aren't filled, then that is a budgetary savings to the agency. **REP. DAILY** said he was also concerned about the termination date.

Motion: **REP. DAILY** moved to amend HB 734 on Pg. 4, Ln. 3 by striking "1" and inserting "3," so the bill would read July 1, 1993.

REP. SIMPKINS questioned if Sect. 2, which gives the appropriation of \$5 thousand, was really needed since the positions were being paid for by vacancy savings. Discussion followed regarding whether or not this would be legal since it was an appropriation bill.

Vote: HB 734 **REP. DAILY'S AMENDMENT.** Motion carried unanimously.

Motion: **REP. SIMPKINS** moved to amend HB 734 by deleting Sect. 2 and to change the title appropriately as it deletes the appropriation.

DISCUSSION:

CHAIR BROWN questioned what would happen to the bill if the amendment wasn't legal. **Ms. Heffelfinger** said she thought the Committee could amend "out" an appropriation.

REP. DAILY asked if HB 734 would go to Appropriations. **CHAIR BROWN** said the bill would first go to the Floor before going to

Appropriations. If the Committee removes the appropriation, it shouldn't have to go to Appropriations unless they want to make sure it won't cost any money.

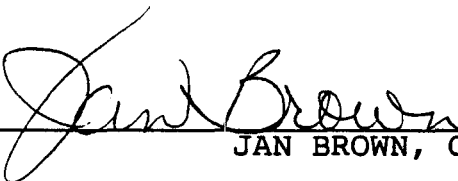
REP. PHILLIPS stated, "We need to get this (bill) passed so we can start helping these people. This should have top priority through the system right now."

Vote: HB 734 REP. SIMPKINS' AMENDMENT. Motion carried 18 to 1 with Rep. Daily voting no.

Motion/Vote: REP. PHILLIPS MOVED HB 734 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

Adjournment: 10:55 a.m.



JAN BROWN, Chair



JUDY BURGGRAFF, Secretary

JB/jb

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 2/14/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JAN BROWN, CHAIR	✓		
REP. VICKI COCCHIARELLA, VICE-CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. GARY BECK	✓		
REP. ERNEST BERGSAGEL	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. JANE DEBRUYCKER	✓		
REP. ROGER DEBRUYCKER	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. PATRICK GALVIN	✓		
REP. HARRIET HAYNE	✓		
REP. BETTY LOU KASTEN	✓		
REP. JOHN PHILLIPS	✓		
REP. RICHARD SIMPKINS	✓		
REP. JIM SOUTHWORTH	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 2

Mr. Speaker: We, the committee on State Administration report that House Bill 577 (first reading copy -- white) do pass as amended .

Signed: Jan Brown
Jan Brown, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "COUNTY,"

Strike: "OR"

Following: "CITY"

Insert: ", OR TOWN"

2. Title, line 8.

Following: "STATUS;"

Strike: "AMENDING" through "MCA;"

3. Page 1, lines 14 and 17.

Page 6, lines 1, 4, and 8.

Strike: "7"

Insert: "6"

4. Page 1, lines 17 through 19.

Following: "means" on line 17

Strike: remainder of line 17 and lines 18 and 19 in their entirety

Insert: "any person employed by or elected to an agency of a legally constituted department, board, or commission of state, county, city, or town government or any political subdivision thereof."

5. Page 2, lines 17 through 25.

Following: line 16

Strike: section 5 in its entirety

Renumber: subsequent sections

6. Page 3.

Following: line 14

Insert: "(3) Upon an employee's return from active duty military leave under the provisions of [section 3] and the employee's return to active employment, the employee must be reinstated as a member of his group insurance contract or plan without any new preexisting condition limitations or waiting periods, as if he had never been absent."

7. Page 4, line 1 through page 5, line 24.

Strike: section 8 in its entirety

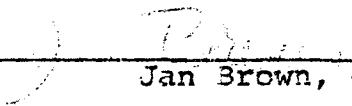
Renumber: subsequent sections

HOUSE STANDING COMMITTEE REPORT

February 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 734 (first reading copy -- white) do pass as amended .

Signed: 
Jan Brown, Chairman

And, that such amendments read:

1. Title, lines 10 and 11.

Following: "SALARY;"

Strike: "APPROPRIATING" on line 10 through "ACT;" on line 11

2. Page 2, lines 11 through 15.

Following: line 10

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 4, line 3.

Following: "July 1,"

Strike: "1991"

Insert: "1993"

EXHIBIT 1
DATE 2/14/91
HB 553

AMENDMENTS to HB 553

Page 2, Line 1, After "contribute", Add: from the general fund



Montana Education Association

1232 East Sixth Avenue • Helena, Montana 59601 • 406-442-4250

NEEDED PERS & TRS PENSION REFORM - "GABA"

**-----
GUARANTEED ANNUAL BENEFIT ADJUSTMENTS
HB553 (TRS-HARRINGTON) & HB661 (PERS-BROWN)
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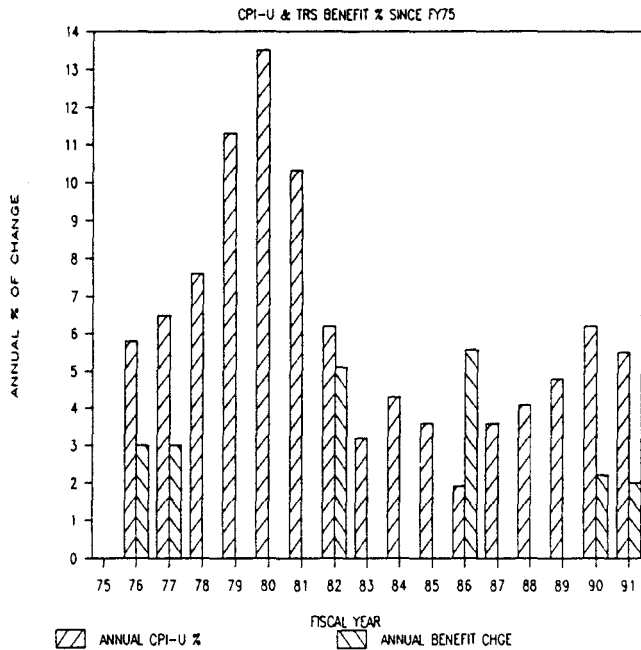
**Tom Bilodeau - MEA Research Director
Before the House State Administration Committee
February 14, 1991**

Even with occasionally enacted pension benefit adjustments, the average Montana Public Employee Retirement System (PERS) employee who retired in 1975 will this year receive less than \$300 per month in PERS benefits. During the same fifteen year period, the typical Teacher Retirement System (TRS) retiree experienced inflation cut the buying-power of his/her TRS pension in half. In simple fact, after a career's worth of service to the people of Montana at salary levels that are recognized as substandard, a public retiree's first pension check will be his/her largest; thereafter every check will be devalued by inflation. It's a serious, obvious and continuing problem with the basic structure of Montana's PERS and TRS retirement programs. It's also a problem that can and -- in the MEA's view -- must be addressed by pension reform enacted by the 52nd Legislature.

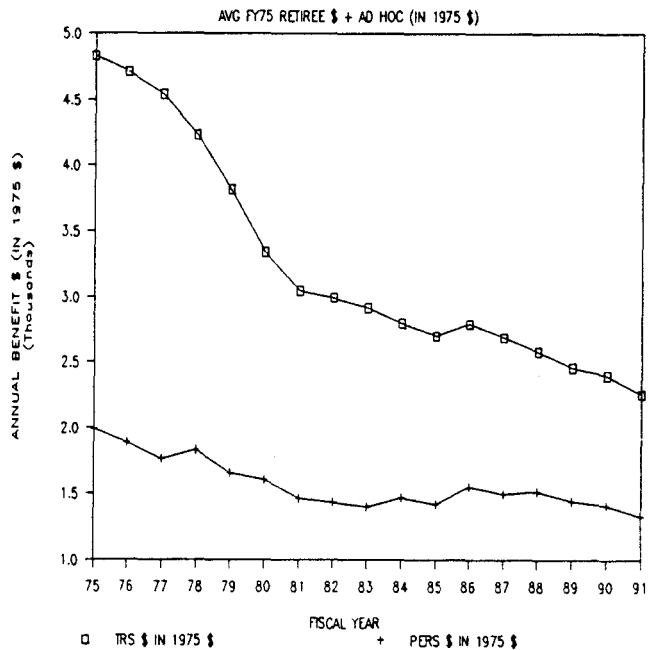
To this end, MEA supports legislation -- HB553 (TRS: Rep. Harrington) and HB661 (PERS: Rep. Jan Brown) -- to establish a "Guaranteed Annual Benefit Adjustment" (GABA) for both TRS and PERS benefits. The proposed, annually accumulating 2% GABA is structured to begin after the retiree completes three years in retirement status. The actuarially determined annual cost of the GABA is approximately \$12 million dollars for TRS and \$14 million dollars for PERS in FY92. As proposed, the GABA is to be funded by a continuing statutory appropriation from the State's General Fund. GABA financing from the General Fund is appropriate both for reasons of addressing the recognized deficiencies of state and public school employee salary levels and -- in respect to public school employees in particular -- advancing the goal of equalization.

The failure of Montana's TRS and PERS benefit plans to provide a minimal financial floor (not to mention security) for retirees against the ravages of inflation and impoverishment during retirement is readily demonstrated. For example, occasionally enacted "ad-hoc adjustments" to TRS benefits have provided an "average" 1975 retiree with benefit adjustments in only five of fifteen years; and in only one of these years (FY86) did the ad-hoc adjustment provide a benefit increase that matched or exceeded that year's annual cost of inflation. Over this same fifteen year period, both TRS and PERS retirees have -- even with the ad-hoc adjustments -- lost effective pension benefit purchasing power to inflation. Indeed, the typical TRS retiree experienced a fifty percent loss in retirement benefit purchasing power! (See graphs on the next page and the table attached at the back.) The "real-life" impact on TRS or PERS retirees is devastating.

INFLATION & TRS BENEFIT % CHANGES



INFLATION ADJUSTED TRS & PERS PENSIONS



While the GABA will not fully compensate for losses in pension purchasing power resulting from inflation, it would provide a far greater certainty of minimal security (a "financial floor") than afforded by "ad hoc" benefit adjustments alone. A retrospective view of the financial floor that would be provided by a GABA is provided by the table appearing to the right. The table assumes that a GABA was implemented in 1975 and that no ad hoc benefit adjustments were additionally enacted in the interim.

IMPACT OF A 2% & 3 YEAR DEFERRED GABA ON TYPICAL 1975 PERS AND TRS RETIREES

YEAR	ANNUAL CPI-U	GABA RATE	RETIREE BENEFITS	
			TRS	PERS
1975*	9.1%	0%	\$4,832	\$1,993
1976*	5.8%	0%	\$4,832	\$1,993
1977*	6.5%	0%	\$4,832	\$1,993
1978	7.6%	2%	\$4,929	\$2,033
1979	11.3%	2%	\$5,027	\$2,074
1980	13.5%	2%	\$5,128	\$2,115
1981	10.3%	2%	\$5,230	\$2,157
1982	6.2%	2%	\$5,335	\$2,200
1983	3.2%	2%	\$5,442	\$2,244
1984	4.3%	2%	\$5,550	\$2,289
1985	3.6%	2%	\$5,661	\$2,335
1986	1.9%	2%	\$5,775	\$2,382
1987	3.6%	2%	\$5,890	\$2,429
1988	4.1%	2%	\$6,008	\$2,478
1989	4.8%	2%	\$6,128	\$2,528
1990	6.1%	2%	\$6,251	\$2,578

US DoL-BLS, TRS/PERS. * = DEFERRAL YEAR

As demonstrated by the table, the proposed GABA is clearly not a "COLA" (Cost-of-Living Adjustment) as the term is commonly understood -- i.e. an annual or otherwise periodic, inflation or CPI driven, variable and largely unpredictable automatic benefit adjustment. While the GABA's 2% fixed rate benefit adjustment is not likely to keep pace with inflation, it does regulate total system cost and makes both cost projection and funding much more certain. Implementation of a GABA would also reduce the magnitude and resulting fiscal shocks of ad hoc adjustments deemed necessary or prudent by future Legislatures.

The function of a GABA would parallel and be consistent with policy considerations already endorsed by the State of Montana in respect to income tax indexing and by the federal government in respect to Social Security/SSI, as well as other programs. Finally, enactment of a GABA would bring Montana's PERS and TRS pension systems into line with the automatic benefit adjustments already existing among other Montana sponsored pension plans and the clear majority of other states' public and school employee pension programs.

**PUBLIC SCHOOL EMPLOYEE PENSION PROGRAMS
 SUMMARY OF AUTOMATIC BENEFIT ADJUSTMENT PROVISIONS**

Type of Provision	Number of Plans	Percent Amount
Fixed \$ Per Year	1	
% Equal to CPI	0	
% Based on CPI, with Cap	25	
Median Cap		3.0%
Mean Cap		3.4%
Fixed %	9	
Median Cap		3.0%
Mean Cap		2.4%
Contingent on Fund Earnings	6	
Number/% of Automatic-Adjust Plans	41	57%
Automatic-Adjust Plans/Total	72	

Source: NEA-Research Retirement Plan Survey (1988);
 See also: Wisconsin Legislative Council Survey (1990).

MEA believes that the GABA is a realistic and prudently funded means to provide minimal pension security for people who commit a career to the needs of our citizens, our children and our future. We urge your support for this important and necessary legislation --
"do pass HB553 and HB661!"

*** PUBLIC EMPLOYEE PENSION SECURITY PLANNING GROUP ***

- Montana Education Association (MEA)
- Montana Retired Teachers' Association - AARP (MRTA)
- Association of Retired Montana Public Employees (AMRPE)
- American Fed of State, County & Municipal Employees (AFSCME)
- Montana Public Employees' Association (MPEA)
- Montana Federation of Teachers/State Employees (MFT-MFSE)

EXHIBIT
 DATE 2/14/91
 Feb-91
 HD 553

-MEA-

TRS BENEFITS, AD-HOC ADJUSTMENTS & INFLATION
 IMPACT ON AN "AVERAGE" 1975 TRS RETIREE WITH 25 YRS SERVICE

YEAR	TEACHER RETIREMENT SYSTEM				6/1975 \$		ANNUAL CPI-U% (DEC)	
	AVG FY '75 RETIREE BENEFIT \$	PLUS AD HOC ADJUSTMENTS	AD HOC BENEFIT	BENEFIT \$ (1975 \$)	ANNUAL \$ LOST TO INFLATION	TOTAL \$ LOST TO INFLATION		PURCHASING POWER INDEX
1974-75	\$4,832	BASE	\$4,832	\$4,832	BASE	----	1.000	9.1
1975-76		FORMULA(\$145)	\$4,977	\$4,713	(\$119)		0.947	5.8
1976-77		FORMULA(\$149)	\$5,126	\$4,542	(\$290)		0.886	6.5
1977-78		0	\$5,126	\$4,229	(\$603)		0.825	7.6
1978-79		0	\$5,126	\$3,814	(\$1,016)		0.744	11.3
1979-80		0	\$5,126	\$3,337	(\$1,495)		0.651	13.5
1980-81		0	\$5,126	\$3,045	(\$1,787)		0.594	10.3
1981-82		FORMULA(\$262)	\$5,388	\$2,990	(\$1,842)		0.555	6.2
1982-83		0	\$5,388	\$2,915	(\$1,917)	(\$27,047)	0.541	3.2
1983-84		0	\$5,388	\$2,797	(\$2,035)		0.519	4.3
1984-85		0	\$5,388	\$2,700	(\$2,132)		0.501	3.6
1985-86		FORMULA(\$300)	\$5,688	\$2,793	(\$2,039)		0.491	1.9
1986-87		0	\$5,688	\$2,691	(\$2,141)		0.473	3.6
1987-88		0	\$5,688	\$2,582	(\$2,250)		0.454	4.1
1988-89		0	\$5,688	\$2,457	(\$2,375)		0.432	4.8
1989-90		"PRBA"(\$115)	\$5,813	\$2,401	(\$2,431)		0.413	6.1
1990-91		"PRBA"(\$117)	\$5,930	\$2,259	(\$2,573)	----	0.381	5.5

SOURCE DATA: TRS FILES & US-DoL/BLS (JUNE-1975 PURCHASE POWER BASE & DECEMBER CPI-U) 1991 ESTIMATED.

-MEA-

PERS BENEFITS, AD-HOC ADJUSTMENTS & INFLATION
 IMPACT ON AN "AVERAGE" 1975 PERS RETIREE WITH 20 YRS SERVICE

Feb-91

YEAR	PUBLIC EMPLOYEES RETIREMENT SYSTEM				6/1975 \$		ANNUAL CPI-U% (DEC)	
	AVG FY '75 RETIREE BENEFIT \$	PLUS AD HOC ADJUSTMENTS	AD HOC BENEFIT	BENEFIT \$ (1975 \$)	ANNUAL \$ LOST TO INFLATION	TOTAL \$ LOST TO INFLATION		PURCHASING POWER INDEX
1974-75	\$1,993	BASE	\$1,993	\$1,993	BASE	----	1.000	9.1
1975-76		0	\$1,993	\$1,887	(\$106)		0.947	5.8
1976-77		0	\$1,993	\$1,766	(\$227)		0.886	6.5
1977-78		FLAT % (\$231)	\$2,224	\$1,834	(\$159)		0.825	7.6
1978-79		0	\$2,224	\$1,654	(\$339)		0.744	11.3
1979-80		FLAT % (\$240)	\$2,464	\$1,604	(\$389)		0.651	13.5
1980-81		0	\$2,464	\$1,463	(\$530)		0.594	10.3
1981-82		FORMULA(\$120)	\$2,584	\$1,434	(\$559)		0.555	6.2
1982-83		0	\$2,584	\$1,398	(\$595)	(\$6,757)	0.541	3.2
1983-84		FORMULA(\$240)	\$2,824	\$1,466	(\$527)		0.519	4.3
1984-85		0	\$2,824	\$1,415	(\$578)		0.501	3.6
1985-86		FORMULA(\$509)	\$3,333	\$1,637	(\$356)		0.491	1.9
1986-87		0	\$3,333	\$1,577	(\$416)		0.473	3.6
1987-88		FORMULA(\$174)	\$3,516	\$1,596	(\$397)		0.454	4.1
1988-89		0	\$3,516	\$1,519	(\$474)		0.432	4.8
1989-90		"PRBA"(\$73)	\$3,594	\$1,484	(\$509)		0.413	6.1
1990-91		"PRBA"(\$68)	\$3,666	\$1,397	(\$596)	----	0.381	5.5

SOURCE DATA: PERS FILES & US-DoL/BLS (JUNE-1975 PURCHASE POWER BASE & DECEMBER CPI-U) 1991 ESTIMATED.

EXHIBIT _____
DATE 2/14/91
HB 661



Association of Montana Retired Public Employees

Post Office Box 4721
Helena, Montana
59604

*A non-profit
corporation
of P.E.R.S. Retirees
for P.E.R.S. Retirees*

Madam Chairman:

I am Dick Williams, President of the Association of Montana Retired Public Employees.

I rise in support of House Bill 661. Certainly a 2 percent increase in PERS retirement is not a cure all, but represents a step in the right direction.

I recently received a letter ^{from} for an older retiree who said that when he retired, his retirement was adequate for his needs. However, the rising cost of living, coupled with rising taxes, has placed him in jeopardy of losing his home. I am sure many retirees are faced with similar problems that could be eased by passage of this legislation.



EXHIBIT 4
DATE 2/14/91
HB 577 & HB 734

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Don Judge on House Bill 577 and House Bill 734 to the House State Administration Committee, February 14, 1991.

Madam Chair, members of the Committee, for the record, my name is Don Judge, representing the Montana State AFL-CIO, and we are here today in support of House Bills 577 and 734.

With the current situation in the Persian Gulf, many young men and women who joined the national guard and reserves are finding themselves in the situation of being called up on active military duty. This means leaving a family, friends, job, or schooling behind with little notice. Whether or not they are actually sent to the Persian Gulf, the loss of a job can create a tremendous financial stress on themselves and their families.

The intent of these two bills is to offer some financial support and stability by way of supplemental pay and certain benefits. This added support would help to relieve some of the stress these citizens and their families suffer after being called to active duty, particularly on a very short notice.

Recently, style and fashion have included yellow ribbons. They decorate downtown stores, trees, homes, streetlights, and buildings. Here in the capital, they are worn on the lapel of Legislators, lobbyists and staff. The spirit of these ribbons is to show the troops in the Middle East that they are supported for the duration of Operation Desert Storm. It is time to put some action behind the spirit. We urge you to look favorably on House Bills 577 and 734.

Thank you.

Proposed Amendments to HB577---Introduced Bill

1. Page 1, line 18 through 19.

Following: "defined in"

Strike: remainder of lines 18 through 19 in their entirety

Insert: "2-18-601, except that the term includes elected officials and excludes any person employed by a political subdivision which is not a legally constituted department, board or commission of a state, county, or city government."

2. Page 2, line 17 through line 25.

Strike: Section 5 in its entirety

Renumber: subsequent sections

3. Page 4, line 1 through line 24 on page 5.

Strike: Section 8 in its entirety

Renumber: subsequent sections.

THROUGH THE MAGNIFYING GLASS

An Analysis of Montana's Governmental Ethics Laws

"I don't think they play at all fairly," Alice began, in a rather complaining tone, "and they all quarrel so dreadfully one can't hear oneself speak--and they don't seem to have any rules in particular: at least, if there are, nobody attends to them" Carroll, Lewis, Alice's Adventures in Wonderland, Chapter 8.

Information has been requested on Montana's ethics laws, including information regarding a potential code of ethics for legislators. This memorandum will discuss the existing Montana framework relating to governmental ethics generally and legislative ethics in particular. It will also consider recent developments regarding legislative ethics in other states.

Montana statutory provisions cited in this memorandum are set forth in an appendix.

Legislative ethics have been the object of intense public scrutiny in other states in recent years. The July 1988 issue of State Legislatures reported that federal prosecutions of state and local officials had more than doubled since 1986. State legislators had been indicted on charges of tax evasion, extortion, conspiracy, obstruction of justice, and accepting bribes. In 1989, Arkansas, Connecticut, Louisiana, Maine, Minnesota, New York, Tennessee, and West Virginia enacted legislation dealing with conflict of interest. The September/October issue of The Journal of State Government, published by the Council of State Governments, is devoted entirely to ethics in government. The January 1990 Leader's Letter noted that respondents to an issues survey conducted by the National Conference of State Legislatures (NCSL) ranked ethics in government as the second most important issue that will face state legislatures during 1990.

In 1973, the National Legislative Conference created the Committee on Legislative Ethics and Campaign Financing. The Committee eventually became the Committee on Ethics and Elections

of the NCSL. The Committee proposed three model laws to be used as guidelines in considering ethics legislation. The model laws dealt with:

- (1) conflict of interest;
- (2) lobbyist registration and disclosure; and
- (3) open meetings.

Article XIII, section 4, of the Montana Constitution requires the enactment of ethics legislation. It provides:

Code of ethics. The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

The Legislature has implemented this provision by enacting legislation in the three areas recommended by the NCSL's Committee on Ethics and Elections.

The purpose of governmental ethics laws is to establish standards of conduct for public servants in order to protect the public interest. Ethics laws focus on the conflicts between the private interests of public officials and their duty to uphold the public interest. Ethics laws are designed to give guidance and set standards to assure that the public interest will not be set aside by the advancement of personal or private interest. State ethics laws typically contain many of the same features; however, ethics laws must be tailored to local traditions and circumstances.

ETHICS AND CONFLICT OF INTEREST

"Consider anything, only don't cry!" [said the White Queen] Carroll, Lewis, Through the Looking-Glass, Chapter 5.

Montana's statutes regarding ethics and conflicts of interest were enacted in 1977 and are codified at Title 2, chapter 2, MCA. Rules of conduct and ethical principles are prescribed for legislators, state officers, state employees, local government officers, and local government employees. Sections 2-2-104, 2-2-111, 2-2-121, and 2-2-125, MCA, provide rules of conduct, the breach of which is a violation of the fiduciary duty owed the public. A violation may be actionable in a civil suit brought by the County Attorney. Sections 2-2-105 and 2-2-112, MCA, provide ethical principles, the breach of which is not a breach of the public trust and is not actionable. Montana has also enacted laws that prohibit an official from having an interest in contracts (Title 2, chapter 2, part 2, MCA) and that proscribe nepotism (Title 2, chapter 2, part 3, MCA).

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Section 2-2-132, MCA, authorizes the Secretary of State to issue advisory opinions, keep and allow public access to voluntary disclosure statements filed under section 2-2-131, MCA, and adopt rules for the conduct of the Secretary of State's affairs under Title 2, chapter 2, part 1, MCA.

Historical Perspective

In 1981, the Secretary of State attempted to implement his statutory role under section 2-2-132, MCA, resulting in a major controversy. In September of 1981, the Secretary of State requested an Attorney General's opinion on 8 questions containing 36 separate issues concerning his role under section 2-2-132, MCA. The Attorney General determined that the discretionary language "may" in the introductory clause of section 2-2-132, MCA, was actually a mandate requiring the Secretary of State to perform the authorized activities. The Attorney General, relying on Montana precedent, determined that because the purpose of Title 2, chapter 2, part 1, MCA, was to protect the public interest, the Secretary of State was required to act. The Attorney General held that the Secretary of State must issue advisory opinions, permit public access to voluntary disclosure statements, and adopt rules concerning the conduct of the Secretary of State's affairs under Title 2, chapter 2, part 1, MCA. The Attorney General declined to advise the Secretary of State as to the method of performing these duties.

The Secretary of State, faced with the obligation of issuing advisory opinions, proceeded to adopt extensive rules and appoint an ethics commission to provide the advice and direction lacking from the Legislature and the Attorney General. In February of 1982, the Montana State Ethics Commission scheduled a hearing to determine whether "a violation of the Code of Ethics has occurred" with respect to certain individuals. The individuals scheduled to appear before the hearing petitioned for and were granted a writ of prohibition staying the hearing. The individuals also sought a declaratory judgment concerning the constitutionality of section 2-2-132, MCA. In State ex rel. Hegstad v. Waltermire, No. 47692 (1st Judicial District 1982), District Judge Gordon Bennett found section 2-2-132, MCA, unconstitutional. The authority to issue advisory opinions was an unconstitutional delegation of legislative authority to the Secretary of State. The Legislature failed to provide adequate guidelines to govern the discretion of the Secretary of State in exercising his mandated duty. The administrative rules adopted by the Secretary of State were declared void as an unauthorized exercise of legislative power. The Secretary of State did not have the authority to constitute, appoint, or expend public funds for the Commission.

The provisions of Title 2, chapter 2, part 1, MCA, have not been addressed by the Legislature since Judge Bennett's opinion in Hegstad. The statutory provisions are therefore merely statements to guide conduct.

Areas of Concern

Two provisions of the Montana Constitution not addressed in the Hegstad case make suspect the enforcement of legislative ethics, such as those found in the ethical principles contained in section 2-2-112, MCA, by any entity other than the Legislature. Article V, sections 8 and 10, of the Montana Constitution raise serious issues as to whether the Legislature could validly delegate enforcement of legislative ethics principles to a nonlegislative entity. Article V, section 8, of the Montana Constitution states:

Section 8. Immunity. A member of the legislature is privileged from arrest during attendance at sessions of the legislature and in going to and returning therefrom, unless arrested on a warrant issued for a felony or a breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

Article V, section 10(1), of the Montana Constitution vests each house with the authority to determine the good name for which it may punish members. It provides:

Section 10. Organization and procedure. Each house shall judge the election and qualification of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for disorderly conduct with the concurrence of a majority of all its members.

If the Legislature decides to revise the ethics provisions found in Title 2, chapter 2, part 1, MCA, in an attempt to make them more enforceable, it is advisable that the legislative ethical principle provisions be separated from the provisions governing public officers and employees in order to avoid a challenge under Article III, section 1, or Article V, sections 8 and 10, of the Montana Constitution. The Legislature could establish provisions similar to the rules of conduct found in section 2-2-112, MCA, that would be enforceable through legal action.

Other States' Actions

Most state ethics laws contain a statement of findings and purpose aspiring to public confidence and trust. Many such laws contain provisions concerning avoiding even the appearance of impropriety. The substantive provisions of ethics acts are not always reconcilable with the stated purpose. Exceptions to the stated purpose abound in the various acts. If there is a general consensus that a particular action is unethical, the pro- scription

often found in the criminal statutes. For example, see Title 45, chapter 7, part 1, MCA. Section 45-7-104(4), MCA, specifically applies to legislators and public servants employed by the Legislature. It provides:

- (4) No legislator or public servant employed by the legislature or by any committee or agency thereof shall solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the legislature or any committee or agency thereof.

Conflict of interest laws generally do the following:

- (1) prohibit the acceptance of gifts and additional compensation;
- (2) prohibit the solicitation of things of value;
- (3) prohibit the use of confidential information for personal gain;
- (4) restrict an employee's or an official's interaction with his or her own agency or other agencies on personal or private business;
- (5) restrict an employee's or an official's outside business interests and employment and restrict official acts that would affect his or her financial interests; and
- (6) restrict an employee's or an official's business contracts with the state.

A nearly universal component of state ethics laws is an ethics commission that is established to provide guidance to those being regulated and to enforce violations. The most obvious defect in Montana's ethics legislation is lack of enforcement.

Situations that have been specifically addressed elsewhere that are or could be applicable in Montana are as follows:

Alabama requires the state ethics commission to initiate educational programs for public officials and citizens on ethics in government service. Section 36-25-4 Alabama Code.

Section 24.60.090 of the Standards of Conduct of Legislators and Legislative Employees of Alaska prohibits those holding certain relationships to a member of the Legislature from being employed in the house in which the legislator is a member, by an agency of the Legislature, or in either house during the interim. An individual who is related to an employee of the Legislature may not be employed in a position over which the employee has supervisory authority. The proscribed relationships are those of child, stepchild, husband, wife, mother, father, sister, or brother.

Connecticut enacted legislation prohibiting lobbying by legislators, the Governor, and the Governor's staff in the year following their leaving office.

Florida prohibits an officer of a state, county, or regional professional or occupational organization or association from serving as a member of the state licensing board for that profession or occupation during his or her term of office. Section 112.313(11) Florida Statutes.

Hawaii's ethics commission has prohibited legislators from using the title of their positions to endorse candidates for election.

The Indiana ethics commission adopted a code of ethics for state employees that controls conflicts of interest, moonlighting, and the kinds of honoraria that employees may accept.

Section 6.800(3) of the Kentucky Revised Statutes states that:

No legislator shall, while in the discharge of the duties of his office, become intoxicated by the use of spiritous, vinous or malt liquors. Any legislator who is unable, incompetent or disqualified to discharge any of the duties of his office because of the use of spiritous, vinous or malt liquors shall be deemed to have violated this subsection.

The Massachusetts Ethics Commission found that the Secretary of Economic Affairs violated state ethics laws when he used his office to solicit interest in a tour of the Soviet Union. The secretary would travel free if he solicited a sufficient number of travelers, and his spouse would travel free for a specified greater number of participants. The secretary withdrew from the trip, reimbursed the state for misdirection of resources, and was reprimanded.

Minnesota prohibits current state employees from contracting with another state agency to provide consultation services or professional or technical services. Section 16B.17 subd. 2 Minnesota Statutes.

Mississippi enacted legislation giving the ethics commission's advisory opinions legal standing. Public servants are relieved from liability for good faith reliance on an advisory opinion. Senate Bill 2853 (1988).

In 1987, the New York Legislature, at the urging of Governor Cuomo, enacted legislation barring legislators and state officers and employees from representing private parties before state agencies and requiring annual detailed financial disclosure. Chapter 813, 1987 New York Laws.

Ohio prohibits a public officer or employee from selling any goods or services to the state unless competitive bidding is used

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in making the purchase. Section 102.04 Revised Code of Ohio.

West Virginia specifically exempts from the category of gifts all reasonable expenses for food, travel, and lodging for a meeting at which the official or employee has a speaking engagement or participates in a panel. Section 6B-2-5 West Virginia Governmental Ethics Act.

Section 19.45(3) of the Wisconsin Code of Ethics prohibits a lawmaker from accepting gifts of any pecuniary value from lobbyists, including meals, beverages, and transportation.

LOBBYIST REGISTRATION AND DISCLOSURE

"But I don't want to go among mad people," Alice remarked.
"Oh, you can't help that," said the Cat, "we're all mad here. I'm mad. You're mad."
"How do you know I'm mad?" said Alice.
"You must be," said the Cat, "or you wouldn't have come here." Carroll, Lewis, Alice's Adventures in Wonderland, Chapter 6.

The interaction between legislators and lobbyists must be considered and made a part of any scheme of legislative ethics. Lobbyist disclosure and registration laws are codified at Title 5, chapter 7, MCA. Lobbyist registration and disclosure laws are not constitutionally mandated in Montana.

Historical Perspective

The first lobbyist registration and disclosure legislation was enacted in 1959. Minor revisions in 1965 and 1977 did not alter the scope of the 1959 law. Six lobbyist disclosure bills were introduced in the Legislature between 1975 and 1980. The political interest in lobbyist disclosure intensified in 1980, when Initiative 85 qualified for the ballot. The title of the initiative stated its intent as follows:

AN ACT TO REQUIRE PUBLIC DISCLOSURE OF MONEY SPENT TO INFLUENCE ACTION OF A PUBLIC OFFICIAL. ALL INDIVIDUALS OR BUSINESSES WHO EMPLOY LOBBYISTS AND SPEND MORE THAN \$1000 A YEAR TO PROMOTE OR OPPOSE OFFICIAL ACTION OF A PUBLIC OFFICIAL MUST GIVE A COMPLETE ACCOUNTING OF ALL MONEY SPENT. THE PROPOSAL DOES NOT APPLY TO INDIVIDUAL CITIZENS LOBBYING ON THEIR OWN BEHALF. ELECTED OFFICIALS ARE REQUIRED TO PUBLICLY DISCLOSE THEIR BUSINESS INTERESTS. CRIMINAL AND CIVIL PENALTIES ARE PROVIDED FOR VIOLATIONS OF THE PROVISIONS OF THIS INITIATIVE.

The proponents of the initiative stated that it would do three things:

(1) Lobbying groups, including government agencies, would have to make public where they get their money and how they spend it to influence public officials.

(2) Those elected to state offices would have to make public the names, addresses, and types of businesses they own.

(3) Loopholes in the present code of ethics for lobbyists would be closed.

Opponents of the initiative contended that it was vague, badly worded, inconsistent, and mechanically unsound. Opponents also contended that much of the money spent in lobbying was actually spent by representatives of governmental bureaus and agencies that would not come within the scope of the initiative.

Initiative 85 was favored by 77 percent of the electors voting on the issue. A challenge to the initiative immediately followed the election. After an unsuccessful attempt by the defendants (the Attorney General and the Commissioner of Political Practices) to remove the case to federal court, the case was heard in District Court. The District Court held Initiative 85 unconstitutional as violative of the rights of privacy, freedom of speech, freedom of the press, freedom of association, freedom to petition the government, equal protection of the laws, and freedom from compelled self-incrimination. The District Court permanently enjoined the defendants from enforcing the initiative's provisions. The District Court held that the constitutionally offensive provisions of the initiative could not be severed because the validity of the entire measure depended upon the showing of a compelling state interest. The defendants appealed to the Montana Supreme Court. The Supreme Court agreed with the District Court that Initiative 85 conflicted with various constitutional rights, but it found that a compelling state interest had been established by the statewide vote. Montana Automobile Association v. Greely, 632 P.2d 300, 38 St. Rep. 1174 (1981). The court found numerous provisions of the initiative beyond redemption but determined that striking the offensive provisions would not result in an incomplete law incapable of fulfilling its purpose. The Supreme Court went so far as to include an appendix to its decision, showing the text of Initiative 85 with the offensive provisions stricken.

Shortly after the decision in Greely was rendered, Initiative 85 was back before the Supreme Court. The State Bar of Montana challenged the initiative as a violation of the separation of powers provision of the Montana Constitution with regard to the licensing and supervision of attorneys and as being so vague as to deny its members due process of law. The Supreme Court granted original jurisdiction to consider the challenge. The Court considered the challenge to Initiative 85 as the Court had emended it 20 days earlier. The Court held the emended initiative constitutional by broadly construing the exemption for

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quasi-judicial activity. The emended initiative was determined to apply only to attorneys in the field of lobbying. State Bar of Montana v. Krivec, 632 P.2d 707, 38 St. Rep. 1322 (1981). The lobbyist disclosure and registration laws have not been addressed since the 1983 Legislature revised the laws to conform to Greely. The laws appear to be working as intended and are no longer an area of great contention.

Areas of Concern

Montana has a part-time Legislature that does not employ partisan committee staff. Lobbyists provide a great deal of information to legislators. Often the only time a lobbyist can find the time to talk with a legislator is after adjournment for the day. The existing law requires a lobbyist to report all expenditures intended to influence legislation. In Montana's legislative setting, everyone tends to know the interested parties. Legislators often solicit information on an issue from certain lobbyists. Legislators receive minimal pay for their legislative work. Restrictions on legislators accepting meals from lobbyists similar to that contained in Wisconsin's law might be too restrictive in Montana.

Other States' Actions

California has extensive provisions concerning the valuation of various types of gifts, including tickets, fundraisers, testimonial dinners, and wedding gifts. Title 2, Division 6 California Administrative Code.

Iowa excludes from gifts to legislators food, beverages, registration, and entertainment at group events to which all members of either or both houses are invited. Section 68B.2 Iowa Code Annotated.

Section 46-287 of the Kansas Statutes Annotated requires any paid advertisement promoting or opposing action or nonaction by the Legislature to be clearly identified as an advertisement and to identify the individual or chairperson of the organization causing the advertisement to be published.

Kentucky prohibits a legislator from lobbying for compensation and requires a legislator to file a written disclosure of lobbying by a member of a legislator's family or a person with whom the legislator maintains a close economic relationship. Section 6.785 Kentucky Revised Statutes.

Section 6B-3-5 of the West Virginia Governmental Ethics Act regulates "grass roots" lobbying campaigns. A grass roots lobbying campaign is a program presented to the public, a substantial portion of which is intended, designed, or calculated to primarily to influence legislation. The sponsor of the campaign is required to register within 30 days of spending either \$500 in any 3-month period or \$200 in any month.

Disclosure of contributors and expenses is then required.

West Virginia exempts lobbyists who lobby on behalf of a nonprofit organization who lobby without compensation and who restrict lobbying to no more than 20 days during a regular legislative session. Section 6B-3-1(7)(B)(iv) West Virginia Governmental Ethics Act.

OPEN MEETINGS

"Let's fight till six, and then have dinner," said Tweedledum. Carroll, Lewis, Through the Looking-Glass, Chapter 4.

Open meetings and records laws implement Article II, section 9, of the Montana Constitution and are codified at Title 2, chapter 3, MCA. In addition, the Montana Constitution, in Article V, section 10(3), requires that:

The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

Historical Perspective

The constitutional mandates governing open meetings in Montana arguably require the most open government in the United States. The framers of the Montana Constitution realized that tension would arise between the right to know and the right of privacy. The framers made a conscious choice to have the courts resolve the tension. The inherent conflicts between the competing rights have been addressed in the courts as envisioned by the framers. The framers did not address the question of a privacy exception for legislative meetings. Issues such as personnel decisions that would need to be made by statutorily created legislative committees were not considered at the time of the 1972 Constitutional Convention.

Areas of Concern

Article V, section 10(3), of the Montana Constitution appears to prohibit the closure of a legislative meeting for any purpose. However, an individual employed by the Legislature does not surrender fundamental constitutional rights. An individual facing termination or discipline by a statutorily created legislative committee could raise his privacy right in an attempt to close the committee's meeting. This issue has not been before the courts. The constitutional distinction between the right to know and the mandate that all legislative meetings be open to the public has not been addressed.

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Others States' Actions

The NCSL model open meeting law contains five reasons for closing meetings to the general public:

- (1) personnel matters;
- (2) real estate transactions;
- (3) collective bargaining strategy sessions;
- (4) labor negotiations; and
- (5) closed public records.

Some states expressly exclude party caucuses from their open meeting laws. The Montana political parties have adopted this method of operation.

Some states specifically exclude chance or social meetings from their open meeting laws.

CONCLUSION

"No! no!" said the Queen. "Sentence first--verdict afterwards." Carroll, Lewis, Alice's Adventures in Wonderland, Chapter 12.

"Fan her head!" the Red Queen anxiously interrupted. "She'll be feverish after so much thinking." Carroll, Lewis, Through the Looking Glass, Chapter 9.

Ethical conduct is often in the eye of the beholder. Acting pursuant to one's own ethical code is insufficient for public servants due to the variances that must result. Life experiences shape each person's view of proper behavior. Action is easy in areas in which there is consensus agreement on the proper conduct of public officers and employees. Many of the ethical provisions contained in Montana law are unenforceable, although individuals may choose to adhere to them. The Montana Constitution requires and the public demands ethical conduct from government. The Legislature should fulfill its constitutional mandate and revise the existing ethics codes to provide public servants with advice and to guarantee to the public enforcement of the ethics codes. Separate enforcement entities should be provided for the legislative and executive branches.

Good government is based on the decency and virtue inherent in each of its components. Intense scrutiny of the conduct of public officers and employees is likely to continue and even increase. A code of ethics is advisable for providing guidance to those who choose to make the sacrifices necessary to serve the public. Ethics commissions with the authority to issue advisory opinions to public servants seeking guidance are most commonly used. Service on an ethics commission is likely to be extremely wrenching and nonrewarding. Passing judgment on colleagues is by

nature difficult, particularly in the grayer areas of ethical conduct. Once they are established, ethics commissions are quickly besieged with requests for advice. The propensity is to "Go ask Alice, I think she'll know." Jefferson Airplane, "White Rabbit".

The high road is often the most difficult road to travel. The public's confidence in and support of government is tied directly to its faith that government is acting in the public's best interest. Public officers and employees would be well advised to adhere to the Red Queen's advice to:

"Always speak the truth--think before you speak--and write it down afterwards." Carroll, Lewis, Through the Looking-Glass, Chapter 9.

APPENDIX

"Is that all?" Alice timidly asked. "That's all," said Humpty Dumpty. "Goodbye." Carroll, Lewis, Through the Looking Glass, Chapter 6.

Article II, Section 9. Right to know. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

Article III, Section 1. Separation of powers. The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Article V, Section 8. Immunity. A member of the legislature is privileged from arrest during attendance at sessions of the legislature and in going to and returning therefrom, unless apprehended in the commission of a felony or a breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

Article V, Section 10. Organization and procedure.

(1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other

than that in which the two houses are sitting.

Article XIII, Section 4. Code of ethics. The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

2-2-101. Statement of purpose. The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

2-2-102. Definitions. As used in this part, the following definitions apply:

(1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of the state or any subdivision thereof or member of the judiciary, including a member of a board, commission, or committee except a legislator and an employee under contract to the state.

(4) "Financial interest" means an interest held by an individual, his spouse, or minor children which is:

(a) an ownership interest in a business;
(b) a creditor interest in an insolvent business;
(c) an employment or prospective employment for which negotiations have begun;

(d) an ownership interest in real or personal property;

(e) a loan or other debtor interest; or

(f) a directorship or officership in a business.

(5) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(6) "Public officer" includes any state officer except a legislator or member of the judiciary or any elected officer of any subdivision of the state.

(7) "State agency" includes the state; the legislature and its committees; all executive departments, boards, commissions, committees, bureaus, and offices; the university system; and all independent commissions and other establishments of the state government except the courts.

(8) "State officer" includes all elected officers and

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directors of the executive branch of state government as defined in 2-15-102.

2-2-103. Public trust. (1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, legislators, and employees. A public officer, legislator, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, legislator, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property, is liable to a beneficiary under 72-34-105, and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The county attorney of the county where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the aggrieved agency.

(3) The following sections set forth various rules of conduct, the transgression of any of which is, as such, a violation of fiduciary duty, and various ethical principles, the transgression of any of which is not, as such, a violation of fiduciary duty.

2-2-104. Rules of conduct for all public officers, legislators, and employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty. A public officer, legislator, or employee may not:

(a) disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal economic interests; or

(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

(i) which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(ii) which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

2-2-105. Ethical principles for public officers and employees. (1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

(2) A public officer or employee should not acquire an

interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by his agency.

(3) A public officer or employee should not, within the months following the voluntary termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term or employment. These matters are rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer or employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

2-2-111. Rules of conduct for legislators. Proof of commission of any act enumerated in this section is proof that the legislator committing the act has breached his fiduciary duty. A legislator may not:

- (1) accept a fee, contingent fee, or any other compensation, except his official compensation provided by statute, for promoting or opposing the passage of legislation;
- (2) seek other employment for himself or solicit a contract for his services by the use of his office.

2-2-112. Ethical principles for legislators. (1) The principles in this section are intended only as guides to legislator conduct and do not constitute violations as such of the public trust of legislative office.

(2) When a legislator must take official action on a legislative matter as to which he has a conflict created by a personal or financial interest which would be directly and substantially affected by the legislative matter, he should consider disclosing or eliminating the interest creating the conflict or abstaining from the official action. In making his decision, he should further consider:

- (a) whether the conflict impedes his independence of judgment;
- (b) the effect of his participation on public confidence in the integrity of the legislature; and
- (c) whether his participation is likely to have any significant effect on the disposition of the matter.

(3) A conflict situation does not arise from legislation affecting the entire membership of a class.

(4) If a legislator elects to disclose the interest creating the conflict, he shall do so as provided in the joint rules of the legislature.

2-2-121. Rules of conduct for state officers and state employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A state officer or a state employee may not:

(a) use state time, facilities, or equipment for his private business purposes;

(b) engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from his agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any state agency; or

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding subsection (2)(e) if his participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under 2-2-131.

(4) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless he is also a full-time state employee.

2-2-125. Rules of conduct for local government officers and employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) An officer or employee of local government may not:

(a) engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties; or

(b) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A member of the governing body of a local government may perform an official act notwithstanding this section when his participation is necessary to obtain a quorum or otherwise enable the body to act, if he complies with the voluntary disclosure procedures under 2-2-131.

2-2-131. Voluntary disclosure. A public officer or employee may, prior to acting in a manner which may impinge on his fiduciary duty, disclose the nature of his private interest which creates the conflict. He shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act.

2-2-132. Powers of the secretary of state. The secretary of state may:

(1) issue advisory opinions with such deletions as are necessary to protect the identity of the requesting party or the party about whom the opinion is written;

(2) keep and permit reasonable public access to voluntary disclosure statements;

(3) make rules for the conduct of his affairs under this part.

2-2-201. Public officers, employees, and former employees not to have interest in contracts. Members of the legislature, state, county, city, town, or township officers or any deputy or employee thereof must not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees. A former employee may not, within 6 months following the termination of his employment, contract or be employed by an employer who contracts with the state or any of its subdivisions involving matters with which he was directly involved during his employment. In this section the term:

(1) "be interested in" does not include holding a minority interest in a corporation;

(2) "contract" does not include:

(a) contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(b) merchandise sold to the highest bidder at public auctions;

(c) investments or deposits in financial institutions which are in the business of loaning or receiving money;

(d) a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than 10% of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.

2-2-202. Public officers not to have interest in sales or purchases. State, county, town, township, and city officers must not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

2-2-203. Voidable contracts. Every contract made in violation of any of the provisions of 2-2-201 or 2-2-202 may be avoided at the instance of any party except the officer interested therein.

2-2-204. Dealings in warrants and other claims prohibited. The state officers, the several county, city, town, and township

officers of this state, their deputies and clerks, are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person or persons whatever any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state or any county, city, town, or township thereof except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, clerk, and evidences of the funded indebtedness of such state, county, city, township, town, or corporation.

2-2-205. Affidavit to be required by auditing officers. Every officer whose duty it is to audit and allow the accounts of other state, county, city, township, or town officers must, before allowing such accounts, require each of such officers to make and file with him an affidavit that he has not violated any of the provisions of this part.

2-2-206. Officers not to pay illegal warrant. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the state, county, city, town, or township when the same has been purchased, sold, received, or transferred contrary to any of the provisions of this part.

2-2-207. Settlements to be withheld on affidavit. (1) Every officer charged with the disbursement of public moneys who is informed by affidavit establishing probable cause that any officer whose account is about to be settled, audited, or paid by him has violated any of the provisions of this part must suspend such settlement or payment and cause such officer to be prosecuted for such violation by the county attorney of the county.

(2) In case there be judgment for the defendant upon such prosecution, the proper officer may proceed to settle, audit, or pay such account as if no such affidavit had been filed.

2-2-301. Nepotism defined. Nepotism is the bestowal of political patronage by reason of relationship rather than of merit.

2-2-302. Appointment of relative to office of trust or emolument unlawful. (1) It shall be unlawful for any person or any member of any board, bureau, or commission or employee at the head of any department of this state or any political subdivision thereof to appoint to any position of trust or emolument any person related or connected by consanguinity within the fourth degree or by affinity within the second degree.

(2) The provisions of this section and 2-2-303 do not apply to:

(a) sheriffs in the appointment of persons as cooks and/or attendants; and

(b) the renewal of an employment contract of a person who was initially hired before the member of the board, bureau, or

commission or the department head to whom he is related assumed the duties of the office.

2-2-303. Agreements to appoint relative to office unlawful. It shall further be unlawful for any person or any member of any board, bureau, or commission or employee of any department of this state or any political subdivision thereof to enter into any agreement or any promise with other persons or any members of any boards, bureaus, or commissions or employees of any department of this state or any of its political subdivisions thereof to appoint to any position of trust or emolument any person or persons related to them or connected with them by consanguinity within the fourth degree or by affinity within the second degree.

2-2-304. Penalty for violation of nepotism law. Any public officer or employee or any member of any board, bureau, or commission of this state or any political subdivision thereof who shall, by virtue of his office, have the right to make or appoint any person to render services to this state or any subdivision thereof and who shall make or appoint to such services or enter into any agreement or promise with any other person or employee or any member of any board, bureau, or commission of any other department of this state or any of its subdivisions to appoint to any position any person or persons related to him or them or connected with him or them by consanguinity within the fourth degree or by affinity within the second degree shall thereby be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than \$50 or more than \$1,000 or by imprisonment in the county jail for not more than 6 months or by both such fine and imprisonment.

5-7-101. Purposes of chapter -- applicability. (1) The purposes of this chapter are to promote a high standard of ethics in the practice of lobbying, to prevent unfair and unethical lobbying practices, to provide for the licensing of lobbyists and the suspension or revocation of the licenses, to require elected officials to make public their business, financial, and occupational interests, and to require disclosure of the amounts of money spent for lobbying.

(2) Nothing in this chapter subjects any citizen lobbying on his own behalf to any reporting requirements nor deprives any such citizen of the constitutional right to communicate with public officials.

5-7-102. Definitions. The following definitions apply in this chapter:

(1) "Individual" means a human being.

(2) "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision thereof, or other organization or group of persons.

(3) "Public official" means any individual, elected or appointed, acting in his official capacity for the state government, but does not include those acting in a judicial or quasi-judicial capacity or performing ministerial acts.

(4) "Lobbying" includes:

(a) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members thereof by any person other than a member of the legislature or a public official acting in his official capacity; and

(b) the practice of promoting or opposing official action by any public official in the event the person engaged in such practice expends \$1,000 per calendar year or more exclusive of personal travel and living expenses.

(5) (a) "Lobbyist" means any person who engages in the practice of lobbying for hire.

(b) "Lobbyist" does not include:

(i) any individual citizen acting solely on his own behalf;

or

(ii) any individual working for the same principal as a licensed lobbyist, such individual having no personal contact involving lobbying with any public official on behalf of his principal.

(c) Nothing in this section deprives any citizen not lobbying for hire of the constitutional right to communicate with public officials.

(6) "Lobbying for hire" includes activities of any officers, agents, attorneys, or employees of any principal who are paid, reimbursed, or retained by such principal and whose duties include lobbying. When an individual is reimbursed only for his personal living and travel expenses, which together do not exceed \$1,000 per calendar year, that individual shall not be considered to be lobbying for hire.

(7) "Unprofessional conduct" means:

(a) a violation of any of the provisions of this chapter;

(b) instigating action by any public official for the purpose of obtaining employment in opposition thereto;

(c) attempting to influence the action of any public official on any measure pending or to be proposed by:

(i) promise of financial support; or

(ii) making public any unsubstantiated charges of improper conduct on the part of any other lobbyist, any principal, or any legislator;

(d) attempting to knowingly deceive any public official with regard to the pertinent facts of an official matter or attempt to knowingly misrepresent pertinent facts of an official matter to any public official.

(8) "Principal" means any person who makes payments in excess of \$1,000 per calendar year to engage a lobbyist.

(9) "Docket" means the register and reports of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.

(10) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value.

(11) "Payment to influence official action" means any of the following types of payment:

(a) direct or indirect payment to a lobbyist by a principal, as salary, fee, compensation, or reimbursement for

expenses, excluding personal living expenses;

(b) payment in support of or assistance to a lobbyist or lobbying activities, including, but not limited to, the direct payment of expenses incurred at the request or suggestion of the lobbyist.

(12) "Business" means:

(a) any holding or interest whose fair market value is greater than \$1,000, in any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed individual, holding company, joint stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

(b) present or past employment from which benefits, including retirement allowances, are received.

(13) "Commissioner" means the commissioner of political practices.

(14) "Elected official" means a public official holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including, but not limited to legislators, public service commissioners, and district court judges. The term "official-elect" shall also apply only to such offices.

5-7-103. Licenses -- fees -- eligibility. (1) Any adult of good moral character who is a citizen of the United States and who is otherwise qualified under this chapter may be licensed as a lobbyist. The commissioner shall provide a license application form. The application form may be obtained in the office of the commissioner and filed therein. Upon approval of the application and receipt of the license fee of \$10 by the commissioner, a license shall be issued which entitles the licensee to practice lobbying on behalf of one or more enumerated principals. Each license shall expire on December 31 of each even-numbered year or may be terminated at the request of the lobbyist.

(2) No application may be disapproved without affording the applicant a hearing. The hearing shall be held and the decision entered within 10 days of the date of the filing of the application.

(3) The fines and license fees collected under this chapter shall be deposited in the state treasury.

5-7-105. Suspension of lobbying privileges. No lobbyist whose license has been suspended and no person who has been adjudged guilty of a violation of any provision of this chapter may engage in lobbying for hire until that person has been reinstated to the practice and duly licensed.

5-7-111. Commissioner to make rules. (1) The commissioner shall promulgate and publish rules necessary to carry out the provisions of this chapter in conformance with the Montana Administrative Procedure Act and, in particular, shall provide rules necessary to allocate salary, expenses, and any other payments between lobbying activities and other activities not

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connected with lobbying for any person whose activities are not solely limited to lobbying.

(2) Such rules shall be designed to effect and promote the purposes of this chapter, express or implied. Such rules shall be as simple and easily complied with as possible.

5-7-201. Docket -- contents. The commissioner shall make available to the public the information required by this chapter, including but not limited to the name and business address of each lobbyist, the name and business address of his principal, and the subject or subjects to which the employment relates or a statement that the employment relates to all matters in which the principal has an interest. The docket entry for each principal shall also indicate the principal's required reports of payments to influence official action by a public official.

5-7-202. Docket -- public record. Such docket shall be a public record and open to the inspection of any individual upon demand at any time during the regular business hours of the office of the commissioner.

5-7-203. Principal -- name of lobbyist on docket. Every principal who employs any lobbyist shall within 1 week after such employment cause the name of said lobbyist to be entered upon the docket. It shall also be the duty of the lobbyist to enter his name upon the docket. Upon the termination of such employment, such fact may be entered opposite the name of the lobbyist either by the lobbyist or the principal.

5-7-204. Updating docket. Any principal employing any lobbyist shall, when further subjects of legislation are introduced or arise which such lobbyist is to promote or oppose, make or cause to be made additional entries in the docket stating such employment so that the docket will show at all times all subjects of legislation in relation to which the lobbyist is employed or the general statement provided in 5-7-201.

5-7-207. Report to legislature. Beginning with the first Tuesday following the beginning of any regular or special session of the legislature and on the first Tuesday of every month thereafter during which the legislature is in session, the commissioner shall from his records report to each member of each house of the legislature the names of lobbyists registered under this chapter, not previously reported, the names of the principals whom they represent as lobbyists, and the subjects of legislation in which each principal is interested.

5-7-208. Principals to file accountings. (1) A principal subject to this chapter shall file with the commissioner an accounting of payments made for the purpose of lobbying.

(2) If such payments are made solely to influence legislative action, such accounting shall be made:

(a) before February 16th of any year the legislature is in session and shall include all payments made in that calendar year

prior to February 1;

(b) before the 16th day of the calendar month following any calendar month in which the principal spent \$5,000 or more and shall include all payments made during the prior calendar month; and

(c) within 60 days following adjournment of such session and shall include all payments made during such session, except as has previously been reported.

(3) If such payments are made to influence any other official action by a public official or made to influence such other action and legislative action, such accounting shall be made:

(a) before February 16th of the calendar year following such payments and shall include all payments made during the prior calendar year; and

(b) before the 16th day of the calendar month following any calendar month in which the principal spent \$5,000 or more and shall include all payments made during the prior calendar month.

(4) If no such payments are made during the reporting periods provided in subsections (2)(a), (2)(c), and (3)(a) above, the principal shall file a report stating such.

(5) Each accounting filed under this section shall:

(a) list all payments for lobbying in each of the following categories:

(i) printing;

(ii) advertising, including production costs;

(iii) postage;

(iv) travel expenses;

(v) salaries and fees, including allowances, rewards, and contingency fees;

(vi) entertainment, including all foods and refreshments;

(vii) telephone and telegraph; and

(viii) other office expenses;

(b) itemize, identifying the payee and the beneficiary:

(i) each separate payment conferring \$25 or more benefit to any public official when the payment was made for the purpose of lobbying; and

(ii) each separate payment conferring \$100 or more benefit to more than one public official, regardless of individual benefit when the payment was made for the purpose of lobbying, except that in regard to a dinner or other function to which all senators or all representatives have been invited, the beneficiary may be listed as all members of that group without listing separately each person who attended;

(c) list each contribution and membership fee which amounts to \$250 or more when aggregated over the period of 1 calendar year paid to the principal for the purpose of lobbying, with the full address of each payer and the issue area, if any, for which such payment was earmarked;

(d) list each official action which the principal or his agents exerted a major effort to support, oppose, or modify, together with a statement of the principal's position for or against such action; and

(e) be kept by the commissioner for a period of 10 years.

5-7-209. Payments prohibited unless reported -- penalty for failure to report or for false statement. A principal may not make payments to influence official action by any public official unless that principal files the reports required under this chapter. A principal who fails to file a required report is subject to the penalty provided in 5-7-305 as well as any civil action provided for in that section. A principal who knowingly files a false, erroneous, or incomplete statement commits the offense of unsworn falsification to authorities.

5-7-210. Reimbursement. Whenever a lobbyist invites a public official to attend a function which the lobbyist or his principal has fully or partially funded or sponsored, or whenever a lobbyist offers a public official a gift, the lobbyist must, upon request, supply the recipient public official with the benefit's true or estimated cost and allow the public official to reimburse. Such expenditures must be itemized in the principal's reports with a notation "reimbursed by benefactee".

5-7-211. Governmental responses not lobbying payments. Budget preparation or response to requests of a house or committee of the legislature by any governmental entity shall not be considered lobbying payments for the purposes of this chapter.

5-7-212. Audit of final accounting statements. (1) The commissioner shall examine and may audit the accountings filed under 5-7-208 and shall investigate any irregularities and report any apparent violations of this chapter to the attorneys having authority to prosecute. The lobbyist is required to provide and the principal is required to obtain and keep for a period of 7 years from the date of filing all records supporting the accountings filed under 5-7-208.

(2) All such records shall be open to inspection on request of the commissioner or an attorney having authority to prosecute violations of this chapter. The commissioner and such attorneys are given the power to:

- (a) subpoena and compel attendance;
- (b) issue enforceable civil investigative demands;
- (c) take evidence; and
- (d) require the production of any books, correspondence, memoranda, bank account statements, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of this chapter.

5-7-213. Disclosure by elected officials. (1) Prior to December 15 of each even-numbered year, each elected official or official-elect shall file with the commissioner a business disclosure statement on a form provided by the commissioner. The statement shall provide the following information: the name, address, and type of business of such individual and each member of such individual's immediate family. For this purpose "immediate family" includes the individual's spouse and minor children only.

(2) No such individual may assume or continue to exercise the powers and duties of the office to which that individual has been elected or appointed until such statement has been filed.

(3) The commissioner shall make such business disclosure statements available to any individual upon request.

5-7-301. Prohibition of practice without license and registration. (1) No individual may practice as a lobbyist unless that individual has been licensed under 5-7-103 and listed on the docket as employed in respect to all the matters he is promoting or opposing.

(2) No principal may directly or indirectly authorize or permit any lobbyist employed by that principal to practice lobbying until the lobbyist is duly licensed and the names of the lobbyist and the principal are duly entered on the docket.

5-7-302. Unprofessional conduct. No lobbyist or principal shall engage in or directly or indirectly authorize any unprofessional conduct.

5-7-305. Penalties and enforcement. (1) Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not more than 6 months or by a fine not exceeding \$200, or both.

(2) Any person who violates any of the provisions of this chapter shall be subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter shall have his license suspended or revoked according to the discretion of the court. Any public official holding elective office adjudged in violation of the provisions of this act is additionally subject to recall under Montana Recall Act, 2-16-601, et seq., and such violation shall constitute an additional basis for recall to those mentioned in 2-16-603(3).

(3) The attorney general, commissioner, or the county attorney of the county in which the violation takes place may bring criminal or civil actions in the name of the state for any appropriate criminal or civil remedy.

(4) If a prosecution is undertaken by the commissioner or any county attorney, all costs associated with the prosecution shall be paid by the state of Montana.

(5) (a) Any individual who has notified the commissioner, the attorney general, and the appropriate county attorney in writing that there is reason to believe that some portion of this chapter is being violated may himself bring in the name of the state an action (hereinafter referred to as a citizen's action) authorized under this chapter if:

(i) the attorney general and the appropriate county attorney have failed to commence an action hereunder within 40 days after such notice; and

(ii) said attorneys then fail to commence an action within 10 days after a written notice delivered to them advising them

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that a citizen's action will be brought if they do not bring an action.

(b) Each notification shall toll the statute of limitations applicable until the expiration of the waiting period.

(c) If the individual who brings the citizen's action prevails, he shall be entitled to be reimbursed by the state of Montana for costs and attorney's fees incurred; provided that in the case of a citizen's action which is dismissed and which the court also finds was brought without reasonable cause, the court may order the individual commencing the action to pay all costs of trial and reasonable attorney's fees incurred by the defendant.

(6) No civil action may be brought under this section more than 7 years after the occurrence of the facts which give rise to the action.

(7) All civil penalties imposed pursuant to this section shall be deposited in the state general fund.

(8) A hearing under this chapter shall be held by the court unless the defendant-licensee demands a jury trial. The trial shall be held as soon as possible but at least 20 days after the filing of the charges and shall take precedence over all other matters pending before the court.

(9) If the court finds for the plaintiff, judgment shall be rendered revoking or suspending the license and the clerk of court shall file a certified copy of the judgment with the commissioner.

45-7-101. Bribery in official and political matters. (1) A person commits the offense of bribery if he purposely or knowingly offers, confers, or agrees to confer upon another or solicits, accepts, or agrees to accept from another:

(a) any pecuniary benefit as a consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(b) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of a known duty as a public servant or party official.

(2) It is no defense to prosecution under this section that a person whom the offender sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or lacked jurisdiction or for any other reason.

(3) A person convicted of the offense of bribery shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, and shall forever be disqualified from holding any public office in this state.

45-7-102. Threats and other improper influence in official and political matters. (1) A person commits an offense under this section if he purposely or knowingly:

(a) threatens unlawful harm to any person with the purpose

to influence his decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(b) threatens harm to any public servant with the purpose to influence his decision, opinion, recommendation, vote, or other exercise of discretion in a judicial or administrative proceeding;

(c) threatens harm to any public servant or party official with the purpose to influence him to violate his duty;

(d) privately addresses to any public servant who has or will have official discretion in a judicial or administrative proceeding any representation, entreaty, argument, or other communication designed to influence the outcome on the basis of considerations other than those authorized by law; or

(e) as a juror or officer in charge of a jury receives or permits to be received any communication relating to any matter pending before such jury, except according to the regular course of proceedings.

(2) It is no defense to prosecution under subsections (1)(a) through (1)(d) that a person whom the offender sought to influence was not qualified to act in the desired way, whether because he had not yet assumed office or lacked jurisdiction or for any other reason.

(3) A person convicted under this section shall be fined not to exceed \$500 or imprisoned in the county jail for any term not to exceed 6 months, or both, unless the offender threatened to commit an offense or made a threat with the purpose to influence a judicial or administrative proceeding, in which case the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

45-7-103. Compensation for past official behavior. (1) A person commits an offense under this section if he knowingly solicits, accepts, or agrees to accept any pecuniary benefit as compensation for having, as a public servant, given a decision, opinion, recommendation, or vote favorable to another, for having otherwise exercised a discretion in another's favor, or for having violated his duty. A person commits an offense under this section if he knowingly offers, confers, or agrees to confer compensation which is prohibited by this section.

(2) A person convicted under this section shall be fined not to exceed \$500 or imprisoned in the county jail for any term not to exceed 6 months, or both.

45-7-104. Gifts to public servants by persons subject to their jurisdiction. (1) No public servant in any department or agency exercising regulatory function, conducting inspections or investigations, carrying on a civil or criminal litigation on behalf of the government, or having custody of prisoners shall solicit, accept, or agree to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation, or custody or against whom such litigation is known to be pending or contemplated.

(2) No public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the government shall solicit, accept, or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim, or transaction.

(3) No public servant having judicial or administrative authority and no public servant employed by or in a court or other tribunal having such authority or participating in the enforcement of its decision shall solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public servant or tribunal with which he is associated.

(4) No legislator or public servant employed by the legislature or by any committee or agency thereof shall solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the legislature or any committee or agency thereof.

(5) This section shall not apply to:

(a) fees prescribed by law to be received by a public servant or any other benefit for which the recipient gives legitimate consideration or to which he is otherwise entitled; or

(b) trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality.

(6) No person shall knowingly confer or offer or agree to confer any benefit prohibited by subsections (1) through (5).

(7) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

45-7-401. Official misconduct. (1) A public servant commits the offense of official misconduct when in his official capacity he commits any of the following acts:

(a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;

(b) knowingly performs an act in his official capacity which he knows is forbidden by law;

(c) with the purpose to obtain advantage for himself or another, performs an act in excess of his lawful authority;

(d) solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law; or

(e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

(2) A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The district court shall have exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from his office without pay pending final judgment. Upon final judgment of conviction he shall permanently forfeit his office. Upon acquittal he shall be reinstated in his office and shall receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect such impeachment or removal.



EXHIBIT 7
DATE 2/14/91
HB 632 + 633

Common Cause/Montana Testimony
in Support of House Bills 632 & 633

14 February 1991

P.O. Box 623
Helena, MT
59624
406/442-9251

Madame Chairwoman and members of House State Administration Committee, for the record, my name is C.B. Pearson, Executive Director of Common Cause/Montana. We would like to go on record in support of both House Bill 632 and House Bill 633.

Government "of the people, for the people, and by the people" depends upon those people having confidence in elected, appointed, and employed officials. The people must be able to trust that an official will make decisions based on the public interest rather than personal or private gain. When that trust is undermined, democracy itself is at risk. To help the people retain trust, governments generally enact ethics or conflict of interest laws.

When public officials do not adhere to ethical standards, democracy pays a high price. First, the people are cheated out of their right to govern themselves. They are cheated whenever a public official becomes indebted to a person or interest that stands to gain from that official's decisions. They are cheated whenever the official makes a decision based on anything less than uncompromising attention to the public interest. Second,

departure from ethical standards creates a situation of unfairness to those individuals affected by the decision and often destroys the morale of other government officials.

Such ethical violations by public officials have become a national crisis. The public was shaken by the implication of the country's top officials in the Watergate and the Iran-Contra scandals of the 70's and 80's. During confirmation hearings for Attorney General in 1985, the nation watched as Edwin Meese was investigated for arranging federal jobs for people who had given him financial assistance. In 1988, E. Robert Wallach, a long-time friend of Meese, was convicted of illegally accepting over \$400,000 from the Wedtech corporation to influence Meese and other officials to help Wedtech gain government contracts. More recently, Speaker of the House, Jim Wright, was charged with 69 ethics violations in connection with bulk sales of a book he wrote. Then there was the HUD scandal, the S & L scandal...the list goes on.

Public concern over the ethics crisis in Washington has pushed the issue to the national forefront. Increasingly, attention is being focused on state and local governments. Federal prosecutions of state and local officials increased by more than 50% between 1986 and 1988 according to State Legislatures. They are being charged with accepting bribes, conspiracy, tax evasion, extortion, and obstruction of justice.

EXHIBIT 7
DATE 2/14/91
HB 633

Government officials nationwide recognize the legitimacy of public concern over ethics in government. A recent survey of local and state officials in City and State, a magazine covering government policy and politics, concluded that:

(the magazine's) readers are deeply worried about the erosion of the public's opinion of them as public servants. Individuals don't work in the public sector to get rich--at least the ethical ones don't--so a loss of public esteem is more than a criticism. It's a rejection of values.

As you know the constitution thus requires the Legislature to "provide a code of ethics prohibiting conflict between public duty and private interest for members of the Legislature and all state and local officers and employees."

The legislature took until 1977 to lay down some general principles and rules in statute, but essentially they turned over the task of deciding what constitutes a conflict of interest to the Secretary of State.

When the legislature attempted to clarify and strengthen ethics legislation in 1979 and 1981, the efforts were defeated resoundingly. The 1981 Legislature did, however, pass a resolution (SJR 36) calling for an interim study of the code of ethics for the purpose of recommending statutory changes. The study was not given priority and was never done.

The 1981 resolution was passed in response to clear deficiencies in the ethics law, newly demonstrated when then

Secretary of State Jim Waltermire refused to issue an advisory opinion. The opinion was requested by Senator Eck and Representative McBride in regard to the conduct of Senator Anderson. According to a Great Falls Tribune story:

Waltermire last week declined to review the conduct of Sen. Mike Anderson, R-Belgrade, who earlier this year reminded his Republican colleagues that the insurance industry has been a generous contributor to GOP legislative campaigns. At the time, Anderson - who is an insurance agent - was trying unsuccessfully to legalize the sale of life insurance policies that are invested in common stocks...

There is indeed an unresolved history with Montana's conflicts of interest laws. This most recent study by Greg Petesch, Through the Magnifying: An Analysis of Montana's Governmental Ethics Laws, again brings out the deficiencies in our law. House Bill 632 and House Bill 633 address these deficiencies, as well as bring Montana's statutes up to date with ethics law development around the country. It is for these reasons that we urge a do pass on HB 632 and 633.



EXHIBIT 8
DATE 2/14/91
HB 633

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Don Judge on House Bill 633 before the House State Administration Committee, February 14, 1991.

Madam Chair, members of the Committee, for the record I am Don Judge, Executive Secretary of the Montana State AFL-CIO here today to oppose House Bill 633.

Initially, let me say that the AFL-CIO applauds the sponsor of this bill for trying to address an issue that could conceivably become one of serious concern. However, we believe that HB 633 may have some flaws that could create more problems than it solves.

Would this bill prevent a legislator who happens to be a farmer from voting on legislation that deals with farm issues? Or, could it prohibit a small business owner from voting on licensing or an economic development proposal? How about a teacher on education issues, or a state worker on the entire budget bill. Would lawyers need to sit out legal issues, or would spouses of doctors defer on Medicare assignments? The examples of potential conflicts are numerous.

Of course, conflict of interest is a serious matter. But, don't forget that the voting public has a way of policing their lawmakers. It always seems that conflict of interest comes to light almost immediately, and the pressure brought to bear on legislators by their constituents and the press keeps the waters clear.

Again, we appreciate the intent of the sponsor, but we urge you to give House Bill 633 a "do not pass" recommendation. Thank you for considering our position.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

STATE ADMINISTRATION

COMMITTEE

BILL NO.

HB 553

DATE 2/14/91

SPONSOR(S)

REP. HARRINGTON

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Loren Frazin	S.A.M	✓	
Ed Sheehy	RETROD FEDERAZ	✓	
Ronald Wellens	KARPE	X	
Gene Huntington	Retired Teachers	✓	
TOM BILLOREAU	MEA	X	
David Spear	TRJ	X	
Terry Minow	MFT	X	
Mike Paterson	MEA	✓	
Pat Carter	Retiree	X	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

STATE ADMINISTRATION

COMMITTEE

BILL NO. HB 661

DATE 2/14/91

SPONSOR(S)

REP. JAN BROWN

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John DeWarden	Self	X	
Tom Schneider	MPEA	X	
Ken Givens	AMRPE	X	
Richard E. Wheeler	AMRPE	X	
TOM BILODERA	MEA	X	
Terry Minow	MET	X	
Loren Argo	SAm	X	
Mike Paterson	MEA	X	
B. Hess	self	X	
Clara M. Denby	MEA	X	
RUTH REITEN	MEA	X	
Pat Carter	retiree	X	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

STATE ADMINISTRATION

COMMITTEE

BILL NO. HB 577

DATE 2/14/91

SPONSOR(S) REP. HARPER

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Rich Brown	MT BOARD VETERANS AFFAIRS	X	
Gert Van Der Vere	Self	X	
Don Judge	MT STATE AFL-CIO	X	
MARK LANGBERT	AFSCME	X	
Don Edwards	OLAW	X	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

STATE ADMINISTRATION

COMMITTEE

BILL NO. HB 632

DATE 2/14/91

SPONSOR(S) REP. BROOKE

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Judge	MT STATE AFL-CIO	Amend	
Mike Mason	Helena		X
DAN EDWARDS	OCHA W	AMEND	
CB Pearson	William Bruce/Montana 4	X	
Tim Beardor	self		X
Don Mac Intyre	Self		✓

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

STATE ADMINISTRATION COMMITTEE BILL NO. HB 734
DATE 2/14/91 SPONSOR(S) REP. JOHN PHILLIPS

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Rich Brown	MT BOARD VETERANS AFFAIRS	✓	
Robt Van Der Vore	Self	✓	
Don Judge	MT STATE AFL-CIO	X	
DAW Edwards	OCAW	X	
MARK LANGDOCK	AFSCME	+	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.