MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

**Call to Order:** By Chairperson Eleanor Vaughn, on February 11, 1991, at 10 A.M. in room 331.

ROLL CALL

**Members Present:**
Eleanor Vaughn, Chairman (D)
Bob Pipinich, Vice Chairman (D)
John Jr. Anderson (R)
Chet Blaylock (D)
James Burnett (R)
Harry Fritz (D)
Bob Hockett (D)
Jack Rea (D)
Bernie Swift (R)

**Members Excused:** None

**Member Absent:** Senator Bill Farrell

**Staff Present:** David Niss (Legislative Council).

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

**Announcements/Discussion:** Dennis Casey asked this committee if they would sponsor a bill for an act entitled: "An act to revise and clarify the law regarding sale of state lands to units of local government". (Exhibit 1) Presently counties are unable to purchase state lands.

Senator Anderson said Madison County was interested in buying some state lands for a landfill dump site. Senator Rea supports this suggested bill because his area would like to be able to buy the state lands to prevent out-of-state corporations from buying lands for dumping purposes. Senator Blaylock read the portion of exhibit 1 that says that state lands may be sold to any sovereign state of the U.S. or to any board of trustees or public corporation or agency.

The Committee will study this request and return tomorrow with more information.

Gordon Morris, Executive Director of the Montana Association of Counties, stated this is a good bill and needs a 3/4 vote of the committee to do a committee bill. Please support this bill.

## HEARING ON SENATE BILL 251

### Presentation and Opening Statement by Sponsor:

Senator Delwyn Gage, Senate District 5, Cut Bank, said Senate Bill 251 will allow the Department of Justice to impose a suspension without pay for up to 10 days on Highway Patrol officers without requiring a presuspension hearing. It authorizes suspension without pay and demotion pending the Highway Patrol disciplinary hearing process.

### Proponents' Testimony:

Peter Funk, Assistant Attorney General assigned to represent the Highway Patrol in the Department of Justice, stated that the bill reflects one major change in the existing disciplinary process. For simple reprimands and for suspensions of up to 10 days in time, the Department of Justice want to impose minimal disciplinary measures without a full blown hearing. Presently, under MAPA before any level of discipline can be imposed there must be a hearing. The primary intent of the bill is to take out of the hearing process minor disciplinary reprimands and suspensions of no more than 10 days. The other changes in the bill are objectionable to the Montana Public Employees Association and we have been meeting with them to reach agreement on how to cope with their objections. He suggests amending out all of Sections 3, 7, 9, 11.

Tom Schneider appeared as a proponent if the amendments are added. Without the amendments he objected strenuously to the bill. Then he suggests that on page 1, section 2, line 24 strike the word "reprimand". Then on page 2, lines 4 & 5 is the crux of the bill to be allowed to impose suspension up to 10 days without filing charges or conducting a hearing. Page 2, line 10 must be removed from the bill. Page 2, line 18 is alright. Page 2, lines 22, 23 and 24 are good amendments and should stay. Page 3, lines 11 and 12 "from a decision issued under 44-1-304" they have agreed to drop that change in the bill and he required that to support the bill. On page 3, section 8, line 17, 18 and 19 are fine. On page 4, lines 4 and 5 they have agreed to put back the language that is stricken. The new section 11, the repealer, has to be dropped from the bill. With those changes he will support the bill.

### Opponents' Testimony:

None

**Questions From Committee Members:**

Senate Blaylock asked Tom Schneider if we should drop the section out or just the lines you have specified? Tom Schneider said if you strike the sections from the bill, we'll go back to current language and that is the easiest way. They don't need to appear in the bill at all.

Peter Funk will deliver a written amendment to the attorney or secretary.

**Closing by Sponsor:**

Senator Gage closed and agreed to the amendment.

**HEARING ON SENATE BILL 264**

**Presentation and Opening Statement by Sponsor:**

Senator Harry Fritz, Senate District 28, Missoula, seeks to end the payment of a sum of money by the University System to the Teachers Retirement System, money which does not support any potential retirees. The optional retirement program is new and was instituted in 1987. It allows a faculty member to bring a retirement program into the state, keep it as long as he works for the University System and then take it when he leaves the state. It's designed for people who are only here for a few years, upwardly mobile, young professionals. It's a modern portable system, which young professionals need. Under the old system everyone in teaching was a member of the Teachers' Retirement System. Prior to 1987, when a faculty member left the state he received the amounts he had deposited in the system. The employers' share was kept in the Retirement System. The University System agreed to continue to pay the Teachers' Retirement System 4.5% of salary for every member who opted for the optional retirement program. The money the University System has paid the TRS has increased every year. It's presently at $700,000 a year. There are about 500 people out of a total of 2,000 university system employees who have this optional retirement plan. The university system seeks to end this subsidy of the Teachers' Retirement System.

**Proponents' Testimony:**

Leroy Schramm, Chief Legal Council for the University System, appears in support of Senate Bill 264. There was no agreement in 1987. The 10% figure that went to ORP and the 4.5% figure that was the continuing contribution to TRS, was a figure agreed upon and a study was to be done to determine if the 4.5% was correct amount. (Exhibit 2) In 1989 the legislature passed a bill that gave enhanced benefits to Viet Nam veterans and it did create additional unfunded liabilities and every employer in the state had to increase their portion to TRS at that time. The amortization period for the TRS unfunded liability is now 36 years and if this legislation goes through it might extend that to 40 years. Or everyone else in the system will have to pay more to cover the unfunded liability. The total membership contributing to the system and the characteristics of those paying in were discussed in terms of percentages. For those 500 people in ORP they have never been in TRS. TRS has increased their membership from 15,000 in 1987 to close to 16,000.

Terry Minow, Montana Federation of Teachers, Montana Council of Faculty Organization, supports SB 264. Her groups consist of the university system's affiliated locals, which includes the university teachers' union of the University of Montana, the Western Montana College faculty association, the Eastern Montana College faculty association and the Northern Montana College faculty association. She handed out written testimony from these different colleges. (Exhibits 3, 4, 5, 6, 7)

Vance Shelhamer, Chairman of Montana State University Faculty Council, stated the council has 28 members that are elected by the campus faculty. They support Senate Bill 264 and they asked the Board of Regents to take action regarding the ORP. He said that recruitment for college faculty is difficult because the benefits that Montana offers, are not competitive with other states. Those who choose ORS leave a nice sum of money in TRS.

Mary Bushing, a librarian at Montana State University, supports Senate Bill 264. As a newcomer she had to make a choice about the retirement system and there were no guarantees that she could remain here. The ORT offered by the Montana University system does have some flexibility. Senate Bill 264 will allow the system to be more competitive in the market place and it would be fairer to the faculty at the University System.

Jerry Furniss, Associate Professor of Business Law, University of Montana, is a member of the executive committee of the University Teachers' Union. His group supports this legislation, although he is a member of the TRS. He thinks the TRS needs to deal with their unfunded liability in a different way. This is a detriment when recruiting faculty because we are less than competitive.

<u>Opponents' Testimony:</u>

David Senn, Teachers' Retirement System, rose in opposition to Senate Bill 264. His written testimony is Exhibit 11. On immediate debts they do not use immediate assets to pay those debts. The system has to have future income. 4.5% is for past services not future services. He also entered a letter from Hendrickson, Miller and Associates, Inc., Actuarial Consultants, regarding the unfunded liability attributable to university members. (Exhibit 12)

Gene Huntington, Montana Retired Teachers Association, appeared in opposition to Senate Bill 264. He agrees the University system needs competitive benefits and salaries to attract good faculty. The assumptions that govern the TRS have been made by the actuary and they will determine what level of benefits are available and if you remove a large portion of the funding for those assumptions without replacement in some other way, you will diminish the ability of the TRS to provide for members in the future. Research done by MEA have seen benefits diminish by 50% in relationship to cost of living. Anything that is done that doesn't replace this funding would be devastating to future benefits of Montana teachers. You could extend the unfunded liability or look to other resources.

Tom Biladeau, Research Director of Montana Education Association, opposes Senate Bill 264. Senate Bill 264 is a bad policy, it is bad economics, and it isn't fair. He gave written testimony. (Exhibit 8) The University System has this special treatment that is not available to anyone else in Montana. The optional retirement system was opposed by MEA and TRS primarily upon the actuarially determined grounds. The teachers of Montana are being asked to pay for the University System's debt. It can be paid from unfunded liability, which is the highest unfunded liability of any pension system in Montana. ARISA targets are 30 years unfunded liability. TRS is presently 36 years. When the Viet Nam credit was given all the employers in the state paid an additional .005% contribution. This was a social cost. He expects that the veterans from the Persian Gulf will probably ask for whole retirement benefits for their time serving this country. Montana teachers' salaries rank 41st in the national average. When schools lay off teachers they don't have a portable pension system to carry to another state. Many new teachers are being hired out of state for many of the same reasons the University system has difficulty getting faculty to stay here. He opposes Senate bill 264. (Exhibit 9)

Bruce J. Moerer, Montana School Board Association, as employers of teachers he sympathizes with the University System. They also want to do their best for all Montana teachers. Who should bear the cost when a system is changed?

<u>Questions From Committee Members:</u>

Senator Pipinich asked Leroy Schramm what is the turnover in the ORS per year? He didn't know the answer. Most, 85% to 90%, of the new hires are choosing the ORS. They are the ones that turn over the most.

Senator Pipinich asked what they take with them out of state? Leroy Schramm said they would take the full 10% plus interest credit with them wherever they go. If they belonged to TRS they pull out the 7% they paid in and not get the 7.5% the University paid the system.

Senator Hockett asked David Senn if they lost all their retirement benefits? David Senn answered that there are vested rights after 5 years.

Senator Hockett asked about a teacher working overseas at a very large salary, would that have any affect on the unfunded liability? David Senn explained that the highest 3 years salary after 25 years service would determine the retirement benefit. Total years service and final average salary are used to figure benefits.

Senator Hockett asked Senator Fritz if the teachers leaving the state loose all their benefits? Senator Fritz answered before 5 years they loose.

Senator Hockett asked if the ORS has a detrimental affect on keeping faculty instate? Senator Fritz answered teachers leave for more salary.

Senator Hockett asked if the University system could just pay their share of the unfunded liability as a budget item? Mr. Schramm said that would make everybody happy.

Senator Swift asked if the teachers were all required to join the TRS before the ORS was given as an option? Yes, they were. Basically, there was a payoff to allow that? Yes, that is what happened.

Senator Blaylock asked Leroy Schramm about the unfunded liability that goes along with vested interests. Mr. Schramm said this is a difficult issue. He admits TRS has legitimate expectation of continuing payment for those people who are University System retirees. There is obligation there. This is a difficult problem. He feels that the new membership in TRS offsets the members who don't join. This is a state budgetary problem and it's starting the dialogue that will lead to a solution.

Senator Hockett asked why wasn't an opportunity given to K-12 teachers to opt out? David Senn there is no optional plan for K-12. The optional plan that existed before 1950 went broke. Most optional plan go broke.

**Close the Hearing:**

Senator Fritz closed the hearing on Senate bill 264 by saying the teachers who take optional retirement system choices have no past obligations to pay for future liability.

## HEARING ON HOUSE BILL 318

### Presentation and Opening Statement by Sponsor:

Scott Seacat, substituting for Representative Kadas, opened the hearing on House Bill 318 explaining that the term of the appointment for the legislative auditor commences in even-numbered years and provides for a transition term.

### Proponents' Testimony:

None

### Opponents' Testimony:

None

### Questions From Committee Members:

None

### Closing by Sponsor:

Scott Seacat closed the hearing on House bill 318.

## EXECUTIVE ACTION ON HOUSE BILL 318

### Motion:

Senator Rea moved we DO CONCUR IN House Bill 318.

### Discussion:

None

### Amendments, Discussion, and Votes:

None

### Recommendation and Vote:

The VOTE was UNANIMOUS in favor on House Bill 318. Senator Pipinich moved that we put this bill on the consent calendar. The VOTE was UNANIMOUS in favor of House Bill 318 being on the consent calendar.

## HEARING ON HOUSE BILL 323

### Presentation and Opening Statement by Sponsor:

Representative Driscoll, House District 92, Billings, opened the hearing on House Bill 323 by saying it changes the eligibility and benefit provisions for disability retirement for new members of the Public Employees' Retirement System and brings our provisions into line with federal regulations. There would be a short fall if you do not accept this bill. If you do approve this legislation there is no fiscal impact.

### Proponents' Testimony:

Linda King gave written testimony in support of House Bill 323 and explained this proposal is cost neutral. (Exhibit 10)

### Opponents' Testimony:

None

### Questions From Committee Members:

Senator Blaylock asked if this leaves the fund fiscally sound? Linda King responded there is no fiscal impact and it does bring us into compliance with federal law.

Senator Swift asked if the bill is retroactive? Linda King responded that all current PERS members would have a one-time, irrevocable election to choose to be covered under the new disability retirement benefits enacted by this bill.

### Closing by Sponsor:

Representative Driscoll closed the hearing on House Bill 323. Linda King said that she would ask Senator Farrell to carry House Bill 323 to the Senate floor.

## EXECUTIVE ACTION ON HOUSE BILL 323

### Motion:

Senator Blaylock MOVED that we DO CONCUR IN House Bill 323.

### Discussion:

None

### Amendments, Discussion, and Votes:

None

**Recommendation and Vote:**

The VOTE was UNANIMOUS in favor of concurring in House Bill 323. Linda King will ask Senator Farrell to carry it to the Senate floor.

## SPECIAL EXECUTIVE ACTION

Senator Swift MOVED that we accept the draft of the State Administration Committee Resolution on the Boards that have been examined by committee members. The VOTE was UNANIMOUS in favor of this committee resolution.

## ADJOURNMENT

**Adjournment At:** 12:10 P.M.

Eleanor Vaughn
ELEANOR VAUGHN, Chairperson

Dolores Harris
DOLORES HARRIS, Secretary

EV/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE 2-11-91

52 LEGISLATIVE SESSION

| NAME | PRESENT | ABSENT | EXCUSED |
| --- | --- | --- | --- |
| SENATOR ELEANOR VAUGHN | X | | |
| SENATOR BOB PIPINICH | X | | |
| SENATOR JOHN ANDERSON | X | | |
| SENATOR CHET BLAYLOCK | X | | |
| SENATOR JAMES BURNETT | X | | |
| SENATOR "BILL" FARRELL | | X | |
| SENATOR HARRY FRITZ | X | | |
| SENATOR BOB HOCKETT | X | | |
| SENATOR JACK "DOC" REA | X | | |
| SENATOR BERNIE SWIFT | X | | |
| | | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

DATE February 11, 1991

COMMITTEE ON State Administration

VISITORS' REGISTER

| NAME | REPRESENTING | BILL # | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| LINDA KING | Public Empl. Ret. Board | HB 323 | ✓ | |
| David Senn | TRS | SB 264 | | ✓ |
| Terry Minow | MFT | SB 264 | ✓ | |
| Ken Heikes | EMC | SB 264 | ✓ | |
| LeRoy H. Schramm | Mt. Univ. System | SB 264 | ✓ | |
| Jerry Furniss | U. of MT | SB 264 | ✓ | |
| Chip E. Miller | Univ. of Montana | SB 264 | ✓ | |
| Peter Funk | Dept. of Justice | SB 251 | ✓ | |
| Tom Schneider | MPEA | SB 251 | only if amended | |
| Bruce W. Moerer | MSBA | SB 264 | | ✓ |
| VAN Shelhamer | MSU Faculty Council | SB 264 | ✓ | |
| Mary Bushing | MSU Faculty | SB 264 | ✓ | |
| Gene Huntington | Montana Retired Teachers | SB 264 | | ✓ |

SENATE STATE ADMIN.
EXHIBIT NO. 1
DATE 2-11-91
Committee BILL NO.

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY THE LAW REGARDING SALE OF STATE LANDS TO UNITS OF LOCAL GOVERNMENT; AMENDING SECTION 77-3-206, MCA."

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

Section 1. Section 77-2-306, MCA, is amended to read:

77-2-306. Who may purchase. (1) State lands shall be sold only to citizens of the United States ~~or to~~, persons who have declared their intentions to become citizens ~~or to~~, corporations organized under the laws of this state, or cities, towns, counties, or other units of local government of this state. No person shall be qualified to purchase state land who has not reached the age of 18 years. As far as possible to determine, the lands shall be sold only to actual settlers or to persons who will improve the same and not to persons who are likely to hold such lands for speculative purposes intending to resell the same at a higher price without having added anything to their value.

(2) State lands may be sold to any sovereign state of the United States or to any board of trustees or public corporation or agency of such state created by such state as an agency or political subdivision thereof. Said lands may be purchased in the quantities set forth in 77-2-307 for use by such state, board of trustees, public corporation, agency, or political subdivision for educational or scientific purposes.

(3) State lands located wholly within the exterior boundaries of the tribal government's reservation as recognized by the federal government may be sold to a tribal government as defined in 18-11-102. No sale involving land in excess of the acreage limitations in 77-2-307 may be made under this section without first consulting with the board of county commissioners of the county or counties in which the lands to be sold are located.

instructional and scientific staff of the Montana university system. The program may be an independent plan or part of a larger plan with respect to some or all of the benefits provided. The benefits under the program must be provided through individual annuity contracts, either fixed or variable, or a combination thereof, issued to and owned by the participants in the program.
History: En. Sec. 1, Ch. 494, L. 1987.

**19-21-102. Definition of teachers' retirement system.** In this chapter, "teachers' retirement system" means the teachers' retirement system provided for in Title 19, chapter 4.
History: En. Sec. 2, Ch. 494, L. 1987.

**19-21-103. Duties of board of regents.** The board of regents shall:
(1) provide for the administration of the program;
(2) designate the company or companies from which the contracts are to be purchased and approve the form and content of the contracts, taking into consideration the:
(a) nature and extent of the rights and benefits to be provided by the contracts for participants and their beneficiaries;
(b) relationship of these rights and benefits to the amount of contributions to be made;
(c) suitability of these rights and benefits to the needs of the participants and the interests of the Montana university system in the recruitment and retention of administrative officers and members of the instructional and scientific staff; and
(d) ability of the designated company or companies to provide these rights and benefits.
History: En. Sec. 5, Ch. 494, L. 1987.

**Cross-References**
Teachers' retirement — administration of system, Title 19, ch. 4, part 2.

**19-21-104 through 19-21-110 reserved.**

**19-21-111. Actuarial investigation to determine unfunded liability.** (1) On June 30, 1990, the teachers' retirement board shall make an actuarial investigation of the teachers' retirement system to determine the past service unfunded liability of active, inactive, and retired members of the Montana university system. The valuation must determine the effect on the amortization of the unfunded liability of the teachers' retirement system caused by persons electing to participate in the optional retirement program. The board shall report its findings to the 52nd legislature.
(2) If the valuation determines that the percentage contribution established in 19-21-203(2)(b) has an adverse effect on the amortization of the unfunded liability, then the board of regents shall pay an additional sum over a period of 40 years to rectify the adverse effect.
(3) Changes in the teachers' retirement system occurring after July 1, 1987, that create additional unfunded liabilities may not be considered in the valuation, and the board of regents may not be required to pay any additional sum on that account except to the extent that those changes benefit members

Leroy Schramm



of the teachers' retirement system who are employees of the Montana university system.
(4) If the valuation determines that the board of regents is paying an amount in excess of that needed to amortize the unfunded liability, the teachers' retirement board shall credit the board of regents for the excess payments. The board of regents shall credit the active participants in the optional retirement program with the excess payments.
History: En. Sec. 9, Ch. 494, L. 1987.

SENATE STATE ADMIN.
EXHIBIT NO. 2
DATE 2-11-91
BILL NO. SB264

## Part 2

## Participation — Benefits

**19-21-201. Participation in program.** (1) Academic and professional administrative personnel with individual contracts under the authority of the board of regents are eligible for and may elect to participate in the optional retirement program instead of the teachers' retirement system. This election must be exercised:
(a) before January 1, 1988, for an eligible person hired before July 1, 1987;
(b) within 90 days after entry into service or before January 1, 1988, whichever is later, for a person hired in an eligible position on or after July 1, 1987; and
(c) within 30 days after receiving written notice of eligibility or before January 1, 1988, whichever is later, for an employee who becomes eligible to participate in the optional retirement program by reason of appointment, promotion, transfer, or reclassification to an eligible position.
(2) The election must be exercised by filing a written notice with the teachers' retirement system and the disbursing officer of the employer. The election is effective as of the date the notice is filed or January 1, 1988, whichever is later.
(3) If an eligible officer or staff member fails to exercise the election, as provided by this section, that person must remain or become a member of the teachers' retirement system.
(4) An election under this section is not effective unless the notice filed with the disbursing officer of the employer is accompanied by an appropriate application, if one is required, for the issuance of a contract or contracts under the program.
History: En. Sec. 3, Ch. 494, L. 1987.

**19-21-202. Effect on rights under teachers' retirement system.** (1) An election under 19-21-201 to participate in the optional retirement program is a waiver of all rights and benefits under the teachers' retirement system except as provided in this section.
(2) A member of the teachers' retirement system who elects to participate in the optional retirement program is considered, for the purpose of determining eligibility for rights and benefits under that system, to be no longer employed in a capacity that allows active membership in that system as of the effective date of the election. Thereafter, the member is considered an inactive member of the retirement system if qualified under 19-4-303, with

SENATE STATE ADMIN.
EXHIBIT NO. 3
DATE 2-11-91
BILL NO. SB264

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11 day of Feb, 1991.

Name: Terry Minow - MFT, Council of

Address: Faculty Organizations

Telephone Number: 442-212

Representing whom?

Appearing on which proposal?
SB 264

Do you: Support? X Amend? ___ Oppose? ___

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MFT

# THE FACULTY ASSOCIATION

EASTERN MONTANA COLLEGE

AAUP

1500 N. 30TH STREET BILLINGS, MT 59101

SENATE STATE ADMIN.
EXHIBIT NO. 4
DATE 2-11-91
BILL NO. SB264

EASTERN MONTANA COLLEGE FACULTY TESTIMONY
STATE ADMINISTRATION COMMITTEE
SENATE BILL 264
FEBRUARY 11, 1991

Members of the Committee, thank you for the opportunity to present the following statement in support of Senate Bill 264 , prepared by the Faculty Association of Eastern Montana College.

We have reviewed the "Actuarial Analysis of the Impact of the University's Optional Retirement Program upon the Teachers' Retirement System as of July 1, 1990" prepared by Alton P. Hendrickson of Hendrickson, Miller & Associates, Inc. Specifically, we note the conclusions on pages 4 & 5 of that report that there was ". . . no basis found to indicate that the selections [by University System faculty of the ORP] have changed the membership's demographics adversely for TRS," ". . . that the members who have selected ORP have been a representative group . . .," and ". . . that the ORP did not have a detrimental impact upon TRS."

In addition, the table on page 7 of that report demonstrates that the amortization period for the TRS unfunded liability will only increase by 1.5 years, from 35.8 to 37.3 years, with no University contribution on behalf of ORP members. We therefore see no reason to conclude, as the actuary apparently has, that any portion of employer contributions for ORP members is "necessary" for the continued financial health of the TRS.

The additional length of time needed to amortize the unfunded liability is relatively small -- only 18 months out of 35.8 years -- while the decreased retirement contribution for ORP members is relatively large -- 4.5% out of 14.5%. ORP members individually forego almost one-third of their retirement contributions in order to collectively prevent the TRS amortization period from increasing by less than one-twentieth.

This seems to us an unreasonable cost for the small number of ORP members to bear on behalf of the large number of TRS members, and we strongly urge you to issue a "Do Pass" recommendation for this bill.

MFT

# THE FACULTY ASSOCIATION

EASTERN MONTANA COLLEGE

AAUP

1500 N. 30TH STREET BILLINGS, MT 59101

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 2-11-91

BILL NO. SB264

EASTERN MONTANA COLLEGE FACULTY TESTIMONY
STATE ADMINISTRATION COMMITTEE
SENATE BILL 264
FEBRUARY 11, 1991

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This seems to us an unreasonable cost for the small number of ORP members to bear on behalf of the large number of TRS members, and we strongly urge you to issue a "Do Pass" recommendation for this bill.

SENATE STATE ADMIN.
EXHIBIT NO. 6
DATE 2-11-91
BILL NO. SB264

February 8, 1991

I would like to express my strong support for Senate Bill 26~~8~~4 264 which would provide equal funding for the Optional Retirement System (ORS) for University System faculty. Actuarial analysis has shown that this will not harm the Teachers Retirement System (TRS) so that there is no reason to divert money from ORS to TRS and money that has already been diverted should be restored to ORS.

This is very important to faculty recruitment and retention since greater than 90% of incoming faculty choose ORS. Without full funding, faculty are receiving less than 3% of their salaries as the employer's contribution to ORS. This means that not only are our faculty the lowest paid in the country but they are receiving the lowest percentage of their salaries as a retirement benefit. Clearly Montana does not need any more disincentives for faculty retention. Passage of Senate Bill 268 is therefore critical to our University System.

Sincerely,

Karl E. Ulrich

Karl E. Ulrich
President
Western Montana College Faculty Association

MONTANA STATE UNIVERSITY
1893•CENTENNIAL•1993

**Department of Plant and Soil Science**
Montana State University
Bozeman, MT 59717-0002
Telephone 406-994-4601
Telefax 406-994-3933

SENATE STATE ADMIN.
EXHIBIT NO. 7
DATE 2-11-91
BILL NO. SB 264

# MEMORANDUM

DATE: February 7, 1991

TO: Members of the Senate State Administration Committee

FROM: Bill Inskeep, Member of Faculty Council Steering Committee
Montana State University

I am sorry that I cannot be here in person today to discuss SB 264 concerning the Optional Retirement Program for the Montana University System. I hope the following points will help represent faculty concerns at Montana State University.

The Optional Retirement Program (ORP) was created by an act of the 1987 legislative session to provide a more competitive and flexible retirement program for professionals within the university system. The majority of land-grant, private and state institutions of higher education offer optional retirement programs, so it was in Montana's best interest to create an ORP here to maintain consistency with the university market place. And, I think most faculty are grateful to the legislators and commissioners office who supported this effort in 1987 for having the foresight to implement an ORP.

However, in order to get the bill passed in 1987, the Teachers Retirement System (TRS) Board was successful in requesting that a majority of the employer contribution to ORP participants continue to go to the TRS fund to support the past service unfunded liability.

What does this mean for members of the ORP? Of the 7.459% employer contribution to university employees, 4.503% goes to TRS and only 2.956% goes to members of the ORP. This represents 60% of the employer contribution that members of the ORP are not receiving in their accounts. In terms of actual dollars, during the last three years since the ORP was implemented, an average member of the ORP has lost $4-5,000. Compound this for 25 years and it represents over $50,000 in lost annuity value. Consequently, the current structure has a significant negative impact on the lives of university professionals who are already making numerous sacrifices to work for universities in Montana.

In addition, consider the premise that the ORP was created to increase the competitiveness of Montana universities with other universities in the United States. An employer contribution of 2.956% to an ORP ranks last in the nation. In fact, it is not even close to our peer institutions who average a 9% employer contribution. Consequently, any vision we may have had for maintaining competitiveness has vanished with the requirement that TRS receives 4.503% of the employer contribution.

We realize that the TRS board is concerned about the unfunded liability in their retirement account. However, the present structure is an unfair and discriminatory tax on a small segment of the population. The 1987 legislature mandated that TRS conduct a study to determine the impact of the ORP on the unfunded liability created by persons electing to participate in the ORP. This study was completed, and their is no evidence that the ORP has disproportionately adversely affected the TRS program. This is not surprising considering that the number of individuals participating in the ORP represents only 3% of the total active TRS participants. Can we afford to continue to tax these individuals unfairly with no evidence of negative impact on TRS? Even if there was a slight impact on TRS, is it fair to tax individuals who will never represent a liability to TRS? Remember that members of the ORP will never represent a future burden to TRS or the State of Montana.

The faculty council at Montana State University supports this bill and even TRS members at MSU realize that the current structure is unfair to new employees and further erodes our ability to attract young faculty. This bill does not require new money from the state; it only requests that all faculty be treated fairly with respect to retirement benefits. We would appreciate your support.

SENATE STATE ADMIN.
EXHIBIT NO. 8
DATE 2-11-91
BILL NO. SB 264

mea

Montana Education Association

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

RE: SB264 -- Eliminating University Contribution to TRS for University Optional Retirement Plan
Before the Senate State Administration Cmte (2/11)
Testimony of: Tom Bilodeau, Research Director - MEA

JANUARY 4, 1990

TO: MEMBERS OF THE TEACHER RETIREMENT BOARD (TRS)

FR: ERIC FEAVER, President - MEA

RE: TIAA-CREF & UNIVERSITY SYSTEM CONTRIBUTIONS TO TRS

It has come to MEA's attention that the University system will propose legislation to eliminate, or phase-out, the University's obligation to continue partial payroll contributions to fund future TRS benefit liabilities for University faculty remaining within the TRS. MEA opposes this proposed legislation. (SB264)

The University's proposal results from implementation of prior University supported legislation to exempt faculty from mandatory TRS membership. For those faculty remaining under TRS (i.e. those not choosing TIAA-CREF membership) and for those faculty already or soon to receive TRS benefits, TRS obviously incurs a substantial and continuing benefit liability. The University should retain full actuarially determined contribution responsibility for these University related TRS liabilities.

The current University contribution to TRS already falls short of covering the full cost of the expected liability. The elimination or reduction of this University financial obligation to TRS will not eliminate or reduce the financial liability to TRS. Rather, the University's proposal will simply transfer University related TRS liabilities to k-12 school employees now paying payroll deductions and to counties paying property tax receipts to TRS. Under such circumstances, MEA opposes the University's proposed legislation.

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c: David Senn - TRS
Tom Bilodeau - MEA

1/11 TRS BOARD

TRANSFER COST: UNFUND LIABILITY

% CONTRIB

IMMEDIATE: +.57% PAYROLL

PHASE-OUT: 7 5YRS !

SENATE STATE ADMIN.
EXHIBIT NO. 9
DATE 2-11-91
BILL NO. 01/31/91 SB 264

MEA

AVERAGE US AND MONTANA TEACHER SALARIES SINCE 1980
(ADJUSTED FOR INFLATION: 1980 BASE)

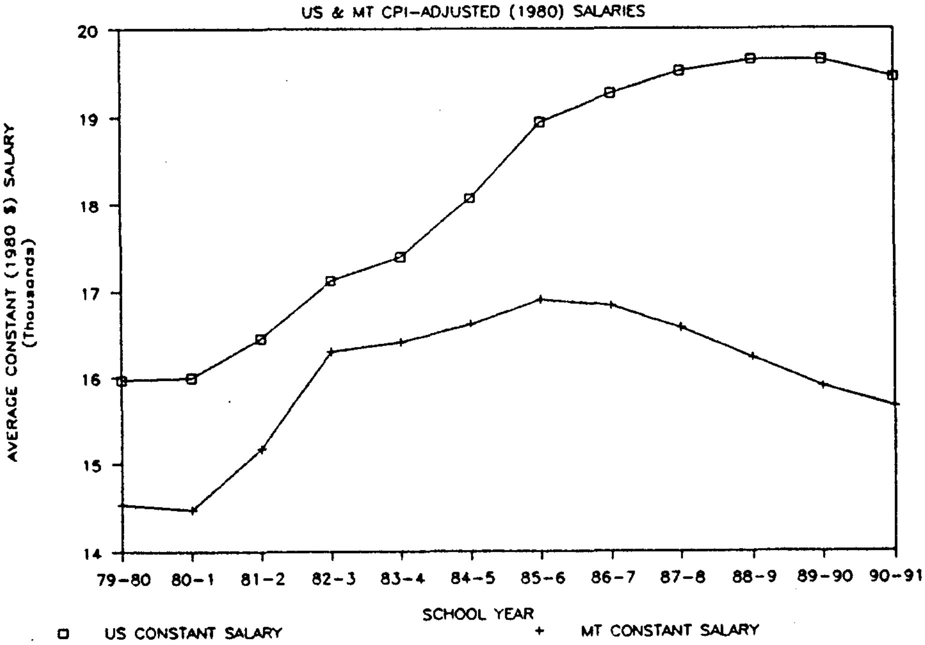
| YEAR | CURRENT $ US AVG $ | CURRENT $ MT AVG $ | CONSTANT $ (1980*) US AVG $ | -ANNUAL CHGE- US $ | -ANNUAL CHGE- US % | CONSTANT $ (1980*) MT AVG $ | ANNUAL CHANGE DATA MT $ CHANGE | MT % CHANGE | RATIO MT/US | DOL DIF MT-US |
|---|---|---|---|---|---|---|---|---|---|---|
| 1979-80 | $15,970 | $14,537 | $15,970 | --- BASE --- | | $14,537 | --- BASE --- | | 91.03% | --BASE-- |
| 1980-81 | $17,644 | $15,967 | $15,994 | $24 | 0.15% | $14,474 | ($63) | -0.43% | 90.50% | ($1,433) |
| 1981-82 | $19,274 | $17,770 | $16,458 | $464 | 2.90% | $15,173 | $699 | 4.83% | 92.19% | ($1,520) |
| 1982-83 | $20,695 | $19,702 | $17,120 | $662 | 4.02% | $16,299 | $1,126 | 7.42% | 95.20% | ($1,285) |
| 1983-84 | $21,921 | $20,690 | $17,396 | $276 | 1.61% | $16,409 | $110 | 0.67% | 94.33% | ($821) |
| 1984-85 | $23,593 | $21,705 | $18,072 | $676 | 3.89% | $16,621 | $212 | 1.29% | 91.97% | ($987) |
| 1985-86 | $25,186 | $22,482 | $18,942 | $870 | 4.81% | $16,901 | $280 | 1.68% | 89.23% | ($1,451) |
| 1986-87 | $26,566 | $23,206 | $19,270 | $328 | 1.73% | $16,833 | ($68) | -0.40% | 87.35% | ($2,041) |
| 1987-88 | $28,029 | $23,798 | $19,518 | $248 | 1.29% | $16,575 | ($258) | -1.53% | 84.92% | ($2,437) |
| 1988-89 | $29,648 | $24,421 | $19,649 | $115 | 0.59% | $16,227 | ($348) | -2.10% | 82.65% | ($2,943) |
| 1989-90 | $31,166 | $25,081 | $19,647 | $194 | 0.99% | $15,886 | ($341) | -2.10% | 80.12% | ($3,406) |
| 1990-91* | $32,724 | $26,210 | $19,451 | ($196) | -1.00% | $15,648 | ($238) | -1.50% | 80.45% | ($3,761) |
| AVG ANNUAL CHANGE | | | | $333 | 1.91% | | $101 | 0.71% | | |
| TOTAL CHANGE | | | | $3,457 | 21.61% | | $1,174 | 8.11% | -10.58% | ($22,085) |

SOURCE: OPI, MEA, NEA & US DEPT OF LABOR-BLS.

* PROJECTED DATA FOR 1990-91.

AVERAGE TEACHER SALARIES (IN 1980 $)

US & MT CPI-ADJUSTED (1980) SALARIES



# HB 323 -- PERS Disability Retirement

Presented by Linda King, Asst. Administrator
Public Employees' Retirement Division

**PRIOR TO FEDERAL CHANGES**

PERS provided disability retirement benefits for members with at least 5 years of service who had become disabled, provided those members were not eligible for regular service retirement benefits. The disability benefit was equal to either (1) 90% of the accrued retirement benefit or (2) 25% of FAS, **whichever was greater.**

Persons over age 60 or who had 30 or more years of service were eligible only for the service retirement benefit.

**WITH FEDERAL CHANGES** ("Current Law" in the Fiscal Note)

Federal Amendments to the Age Discrimination Act (ADA) enacted last fall now prohibit disability retirement plans from withholding disability benefits to members based on age. Therefore, all PERS member with at least 5 years of service who become disabled are eligible to receive a disability retirement benefit (described above).

Since the rate of disabilities increase with age, a relatively large proportion of persons over age 60 are expected to become disabled from the current job at some point prior to retirement. Disability retirements are expected to increase dramatically for those members over 60 years of age.

The major impact of this federal change is for members over age 60 who have less than 14 years service. These members will be eligible for the minimum disability retirement benefit of 25% of FAS. On the average, these members will receive a 200% increase in their monthly benefit. This increase in benefits is expected to cost the PERS over $41 Million in additional benefit payments by the year 2006. **Beginning in FY 94, additional employer contribution rates (estimated at an additional 5.6% of salaries or $2.5 Million each year) will be required to fund these increased benefits.**

**HB 323 PROPOSAL:**

In compliance with the provisions of the the Federal amendments prohibiting age discrimination in disability retirement plans, the Public Employees' Retirement Board recommends the adoption of HB 323 with the following provisions:

The "old" disability retirement benefit structure would be retained for all current PERS members; members who are eligible for service retirement would **not** be eligible for disability retirement. The disability retirement benefit would be either 90% of the accrued retirement benefit or 25% of FAS, whichever was greater.

A "new" disability retirement benefit structure would be instituted for a new PERS members. Anyone who became disabled after 5 years of service would be eligible for a disability retirement benefit which is 100% of the accrued retirement benefit. There would be no minimum benefit.

All current PERS members would have a one-time, irrevocable election to choose to be covered under the new disability retirement benefits enacted by this bill.

Since the "new" disability benefits do not discriminate because of age and all PERS members may be covered at their individual option, the entire plan will be deemed to qualify as nondiscriminatory under the federal law. This will eliminate the need to pay a minimum benefit of 1/4 FAS to persons over age 60, but will also eliminate this minimum benefit for new employees. This bill will not require increased employer contributions to fund the retirement system.

David Senn testimony

SENATE STATE ADMIN.

EXHIBIT NO. 11

DATE 2-11-91

BILL NO. SB 264

ORP TESTIMONY
Senate Bill 264

University's Optional Retirement Program

The Teachers' Retirement Board is opposed to the provisions of Senate Bill 264 because it would reduce current funding to the Montana Teachers' Retirement System while enhancing benefits under the optional retirement plan (ORP). We do not object to the University's efforts to enhance benefits by having more dollars contributed to the ORP; but this must not be allowed at the expense of the Teachers' Retirement System.

The optional retirement program (ORP) was enacted by the 1987 legislature. The Teachers' Retirement Board objected to this legislation because an optional retirement program would remove a significant funding source (future compensation) whenever employees of the University System elected the ORP. At That time it was estimated that 85% to 90% of all university Employee would elect to join the ORP.

The board also was concerned that younger employees would elect the ORP and older employees would elect the Teachers' Retirement System creating selection against the Montana TRS.

The University System responded that they understood their liabilities to Montana Teachers' Retirement System and amended their proposal to provide for a study, and a continuing contribution to the TRS. The current rate contributed to the TRS by the University System is 4.503%, the remaining 10% of the total 14.503% TRS statutory contribution is contributed to the ORP.

Senate Bill 264 represents a 45% increase in the benefits under the ORP for less than 15% of the eligible TRS members. It does not provide for additional funding to pay for this enhancement but reduces current contributions to TRS required to fund the system's past service unfunded liability.

Contributions to the Teachers' Retirement System to amortize the system's unfunded liability come primarily from two sources, school districts and the University System. A reduction in the University System's contribution rate will shift the cost to the local school districts whose primary source of funding is property taxes. This shift in liability to school districts must be funded.

Full funding will require an increase in the employers contribution rate of .703%, from 7.459% to 8.162%, which would raise an additional $2.95 million during fiscal year 1992 and increase proportionately each year for the next 36 years. In lieu of increasing the contribution rate the legislature must appropriated a lump-sum payment to the TRS of $52,691,346. If additional funding is not provided the current amortization period will increase by 6.18 years from 36.31 to 42.49 years.

Hendrickson, Miller & Associates, Inc.
ACTUARIAL CONSULTANTS

Securities Building • 101 N. Last Chance Gulch
P.O. Box 823 • Helena, Montana 59624
Telephone 406/442-5222
FAX 406/442-5089

RECEIVED
FEB 0 8 1991
TEACHERS' RETIREMENT SYSTEM

SENATE STATE ADMIN.
EXHIBIT NO. 12
DATE 2-11-91
BILL NO. SB 264

February 6, 1991

David L. Senn
Teachers' Retirement System
1500 Sixth Avenue
Helena, MT 59620

Re: University's Share of the Unfunded Liability

Dear Dave:

An actuarial valuation as of June 30, 1990 determined the past service liability of the Teachers' Retirement System (TRS) to be $1.389 billion. This liability represents $502 million of benefits already earned by retired members and $887 million earned by active members. The system had assets on that date of $742 million to be applied to this liability. The balance of $647 million represents the unfunded liability.

We have determined that the portion of the unfunded liability attributable to university members is $106 million. The TRS assets have never been allocated by source, so we assumed that the university's share was proportionate to its share of the past service liability, 16.7%.

The following table illustrates the membership makeup of TRS and the university's portion as of June 30, 1990, including 523 members who elected the Optional Retirement Program (ORP):

| | Total | University | Percent |
|---|---|---|---|
| Active Members | 16,525 | 2,033 | 12.3% |
| Active Compensation | 411,650,242 | 66,097,347 | 16.1 |
| Retired Members | 6,558 | 819 | 12.5 |
| Retirement Benefits | 53,771,556 | 9,808,976 | 18.2 |

Over 25% of the university members had already elected ORP by June 30, 1990; we have assumed this percent will increase to 85% by 1999. The average value of TRS benefits is 8.9% of compensation. If a fully vested benefit of 14.5% of compensation is available under ORP, we feel that almost all new university members will elect this alternative, and that the percent will increase another 60% by 1999.

If TRS loses the funding of 4.503% of the compensation of university member's electing ORP, the overall contribution rate under TRS will need to be increased by .703% of compensation to cover the short-fall on the unfunded liability, and maintain TRS at its present financial strength.

Sincerely,

Alton P Hendrickson

Alton P. Hendrickson, ASA

SENATE STANDING COMMITTEE REPORT


February 11, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 318 (third reading copy -- blue), respectfully report that House Bill No. 318 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

2-11-91
Amd. Coord.

SB 2-11 1:00
Sec. of Senate

311238SC.Sji

SENATE STANDING COMMITTEE REPORT


February 11, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 323 (third reading copy -- blue), respectfully report that House Bill No. 323 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

2-11-91
Amd. Coord.

2-11 1:00
Sec. of Senate

311240SC.Sji