

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By DICK SIMPKINS, CHAIR, on January 6, 1993, at  
8:03 a.m.

**ROLL CALL**

**Members Present:**

Rep. Dick Simpkins, Chair (R)  
Rep. Wilbur Spring, Vice Chair (R)  
Rep. Ervin Davis, Vice Chair (D)  
Rep. Beverly Barnhart (D)  
Rep. Pat Galvin (D)  
Rep. Bob Gervais (D)  
Rep. Harriet Hayne (R)  
Rep. Gary Mason (R)  
Rep. Brad Molnar (R)  
Rep. Bill Rehbein (R)  
Rep. Sheila Rice (D)  
Rep. Sam Rose (R)  
Rep. Dore Schwinden (D)  
Rep. Carolyn Squires (D)  
Rep. Jay Stovall (R)  
Rep. Norm Wallin (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sheri Heffelfinger, Legislative Council  
Dorothy Poulsen, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 55, HB 65  
Executive Action: HB 54, HB 55

**HEARING ON HB 65**

**Opening Statement by Sponsor:**

**REP. VICKI COCCHIARELLA, House District 59, Missoula,** stated that  
HB 65 has come as the recommendation of the Joint Interim  
Subcommittee on Public Employee Retirement Systems. The focus of  
the Subcommittee was to study retirement issues and recommend

direction and policy for the retirement systems. The bipartisan Subcommittee had eight members: Sen H. W. Hammond, Sen. Bernie A. Swift, Sen. Don Bianchi, Sen. Bob Hockett, Rep. Francis Bardanouve, Rep. Ernest Bergsagel, Rep. Vicki Cocchiarella, and Rep. Vernon V. Keller.

**REP. COCCHIARELLA** stated that HB 65 creates a permanent statutory retirement committee. The committee would develop state policy on retirement issues, provide consistency and direction to legislation, and advise legislators on retirement issues. Additionally, by providing consistency and direction in the review of public retirement system legislation, the costs of such legislation would be better understood and long range planning of financial obligations would be possible.

**REP. COCCHIARELLA** reviewed HB 65: Section 1 describes the membership of the committee. Members would include four members from the Senate and four from the House. At least two members would serve on the State Administration committee (or the standing committee to which retirement bills are assigned), one member would serve on the Senate Finance and Claims committee, and one member would serve on the House Appropriations committee.

Sections 4 and 5 of HB 65 provides for the Legislative Council's assistance in the review of retirement systems including financial analysis.

**REP. COCCHIARELLA** recommended this permanent retirement committee as a money-saving interim committee.

#### Proponents' Testimony:

**Art Whitney, Vice-President, Association of Montana Retired Public Employees**, urged the creation of the permanent committee as a forum for the discussion of retirement system proposals. The committee would also serve to allow legislators to be more knowledgeable about retirement programs. He urged the committee to pass HB 65.

**Tom Schneider, Montana Public Employees Association**, stated that he was assistant director of the teacher's retirement until 1971 and therefore had experience in retirement issues. **Mr. Schneider** stated that the benefit of HB 65 is more to the legislature than to MPEA and provided the following example.

According to **Mr. Schneider**, the last major piece of legislation dealing with the state retirement system was in 1971. Since that time, the legislature has passed ad hoc cost-of-living increases for retirees of the Public Employees Retirement System (PERS). **Mr. Schneider** suggested that the major need of the retirement system is to provide for an automatic cost-of-living adjustment funded by both employee and employer. Passing ad hoc increases costs the state excessively because only the employer pays for ad hoc increases. The employer must pay for ad hoc increases

because there is no on-going benefit for the employee. **Mr. Schneider** suggested this situation has occurred because the 90-day legislative session is not sufficient time to consider the complexity of retirement issues.

**Mr. Schneider** urged the formation of the permanent committee so that the legislature would have a group of legislators who knew and understood the issues and problems of the public retirement systems. He emphasized that the legislative load--41 bills on retirement issues in the 1991 session--is too large for consideration in 90 days.

**David Senn, Executive Director, Teachers' Retirement System,** stated that it was important for the legislature to establish retirement policies for the State of Montana and that this task can only be carried out during the interim when there is time to study and work on policies. He reiterated the point of other speakers that the 90-day session was insufficient time for adequate consideration of programs. **Mr. Senn** concluded that because retirement programs are very expensive and also because automatic cost-of-living adjustments are the single most important benefit lacking in the public retirement systems, passage of HB 65 had the Teachers' Retirement System's whole-hearted support.

**Tim Shanks, Montana Police Protective Association,** also supported HB 65. **Mr. Shanks'** concern was that when committee members are chosen that those members represent various retirement systems.

**Bill Fleiner, Montana Sheriff's and Police Officer's Association,** supports the concept of HB 65. **Mr. Fleiner's** concern was that all the retirement systems would be perceived as similar. The various systems have different needs, and the circumstances of the individuals in the various systems differ. **Mr. Fleiner** concluded, however, that a permanent committee would be beneficial to both the legislature and to public employees.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

**REP. BARNHART** asked **REP. COCCHIARELLA** whether she would object to an amendment to HB 65 requiring that the committee be gender-balanced. **REP. COCCHIARELLA** responded that she would object only because this was a committee bill from the interim committee. She said that the committee had spent a great deal of time fine-tuning the bill in order to have unanimous bipartisan support, and therefore she was not in a position to accept an amendment to the bill.

**REP. GALVIN** asked **Mr. Schneider** whether the Public Employees Retirement System (PERS) was related to social security. **Mr.**

**Schneider** responded that PERS collected social security for the State of Montana but benefit-wise PERS and social security were completely separate. **REP. GALVIN** asked whether it was possible for an individual to receive both a benefit under PERS and social security. **Mr. Schneider** responded that probably 97% of the people who receive a PERS benefit also receive social security.

**REP. RICE** asked **REP. COCCHIARELLA** whether requiring retirement proposals to be presented to the committee 45 days prior to the legislative session (lines 4-5, page 5) allowed sufficient time for review. **REP. COCCHIARELLA** said that the time was discussed at length in committee and that 45 days was a compromise. She agreed that the review period was not ideal but that the committee considered it sufficient to review and bring proposals to the legislature. She noted that the retirement systems also needed time to get the fiscal data necessary before meaningful consideration of retirement proposals could begin.

**REP. WALLIN** asked **REP. COCCHIARELLA** whether it was possible for all members of the committee to also be public employees and if their recommendations could be slanted in such a way as to make the systems more expensive. **REP. COCCHIARELLA** responded that she would trust the process by which members are appointed to the committee. Only two members of the interim study committee were interested or affected by retirement systems in the State of Montana. **REP. WALLIN** stated that he would propose an amendment to HB 65 that at least half of the committee members not be public employees.

**REP. SIMPKINS** asked **REP. COCCHIARELLA** if the proposed committee's meetings would be open to the public and previously announced so that affected individuals and organizations could attend. **REP. COCCHIARELLA** responded that the highest priority of the interim subcommittee was that the public, both retirees and taxpayers, be part of the decision-making on retirement issues. **REP. SIMPKINS** described the intent of the permanent retirement committee as providing a continuous exchange of information between retirement groups and legislators. **REP. COCCHIARELLA** agreed.

**REP. ROSE** asked **Mr. Senn** about school administrators having contracts in which they receive salary and additional money for health insurance who then contribute the health insurance monies to the retirement system. **Mr. Senn** responded that several sessions ago the Teachers' Retirement System recognized that there was some manipulation of salaries reported to TRS. The legislature passed a 10% cap under which the salaries used in calculation of retirement benefits could not exceed the preceding year by more than 10%.

**REP. SIMPKINS** identified **Mark Cress** as a proponent of HB 65 and, with the committee's indulgence, asked **Mr. Cress** if he would like to speak on the bill.

**Mr. Cress, Administrator of the Public Employees Retirement Division**, spoke as a proponent for HB 65 because it establishes a statutory retirement committee. He stated that the legislature has the responsibility to set retirement policy for all public employees in Montana. Because this responsibility involves complex funding issues, dozens of legislative bills, and diverse advocates, the interim legislative committee has recognized the necessity of a statutory retirement committee for adequate study of the retirement issues. **Mr. Cress** stated that public retirement systems are a recurring issue which require long-range policy-making. A single statutory committee would be able to establish a consistent, long-term view which is necessary for public employees and retirees. **Mr. Cress** also noted that HB 65 clearly separates the role of the legislature as a policy body and the role of the retirement boards as administrative and fiduciary bodies. **Mr. Cress** supports passage of the bill.

**Closing by Sponsor:**

**REP. COCCHIARELLA** closed by pointing out that HB 65 came from a bipartisan committee who considered the concerns of various constituency groups. The committee tried to draft legislation that made sense to both taxpayers and the legislature. **REP. COCCHIARELLA** pointed out that there were 41 bills on retirement in the 1991 session. She contended that the statutory committee would be able to screen through proposed legislation as well as provide more consistent policy. The statutory retirement committee would also provide an opportunity for the legislature to avoid a situation in retirement similar to workers' compensation. She stated that HB 65 also would be a complement to Governor Racicot's proposed early retirement plan.

**HEARING ON HB 55**

**Opening Statement by Sponsor:**

**REP. ERVIN DAVIS, House District 53, Charlo**, introduced HB 55 by request of the Teachers' Retirement Board. The bill restores to a retired member of the Teachers' Retirement System the member's full normal form of retirement allowance if the designated beneficiary precedes the member in death. EXHIBIT 1

**Proponents' Testimony:**

**David Senn, Executive Director, Teachers' Retirement System**, stated that the primary benefit of HB 55 was that it would provide more flexibility and security to employees in choosing among various retirement options. Currently, employees may choose to take a reduced benefit in order that a beneficiary would receive benefits after the retiree's death. If, however, the beneficiary dies prior to the retiree, the benefit either continues at the reduced rate or is further reduced. This legislation would allow the retiree's monthly annuity to be restored to the non-reduced rate if the designated beneficiary

precedes the retiree in death. **Mr. Senn** provided written testimony. EXHIBIT 2

**Mr. David Evenson, Montana State University System**, stated that he represented an employee advisory group which discusses employee benefits. This group considers HB 55 an excellent proposal and wants to inform the committee that they support the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

**REP. GERVAIS** asked **REP. DAVIS** whether HB 55 required a fiscal note. **REP. DAVIS** stated that he did not believe so and referred the question to **Mr. Senn**. **Mr. Senn** stated that the bill does not require a fiscal note because there are no administrative costs to the proposal and no costs to employers or employees. He explained that the full funding comes at the time of retirement when actuarial factors are used to determine the actual retirement benefits.

**REP. WALLIN** asked **REP. DAVIS** whether, since the bill is not retroactive, **REP. DAVIS** would benefit from this bill (as a retired teacher) and whether the bill would cost school districts for future retirees. **REP. DAVIS** assured **REP. WALLIN** that he would not benefit personally from the bill nor would it cost school districts for future retirees.

**REP. WALLIN** asked **REP. DAVIS** whether teachers who began teaching today would receive a higher benefit because of HB 55. **REP. DAVIS** responded that retirement options are chosen at the time of retirement so that a beginning teacher would not be affected by the bill in the near future. **Mr. Senn** explained that HB 55 only affects the choice of an option in which the retiree receives a reduced benefit to provide for a beneficiary. The bill does not change the basic benefit which remains the same. The benefit of the bill is that it reduces the risk for retirees in their choice of options.

**REP. RICE** asked **Mr. Senn** whether private retirement funds are moving in the same direction as HB 55. **Mr. Senn** responded that he was not knowledgeable about private plans, but that other public plans are making similar changes.

**REP. MOLNAR** asked **Mr. Senn** whether the beneficiary could be a young child. **Mr. Senn** responded yes, but the retiree would receive a much reduced benefit.

**REP. MOLNAR** asked whether the beneficiary could be anyone. **Mr. Senn** stated that there were no restrictions on the choice of beneficiary.

REP. SPRING asked Mr. Senn if two teachers were married, whether they could choose different options. Mr. Senn responded that each teacher is treated independently and could make different choices.

REP. SIMPKINS asked for clarification from Mr. Senn that benefits are based on actuarial statistics based upon the age of the beneficiary. Thus, the younger the beneficiary the less benefit the retiree would receive. Mr. Senn agreed.

Closing by Sponsor:

REP. DAVIS closed by urging the committee to pass HB 55.

EXECUTIVE ACTION ON HB 20

Discussion: Sheri Heffelfinger asked that action be postponed for further review of amendments.

REP. SIMPKINS postponed action.

EXECUTIVE ACTION ON HB 54

Motion: REP. SPRING MOVED HB 54 DO PASS.

Discussion:

REP. BARNHART, who had asked for more time to review the bill with constituents, stated that she favors HB 54.

Vote: HB 54 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 55

Motion: REP. ROSE MOVED HB 55 DO PASS.

Discussion:

REP. GERVAIS asked whether a spouse was required to initial the retirement options chosen by the retiree. Mr. Senn stated that there is no requirement in state or federal law that public plans for spouses to sign; however, for the Teachers' Retirement Board spouses are asked to sign on the application for retirement if the retiree chooses a benefit just for the retiree's life.


Motion/Vote:

Vote: HB 55 DO PASS. Motion carried unanimously.

ADJOURNMENT

Adjournment: 9:10 a.m.

  
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DICK SIMPKINS, Chair

  
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DOROTHY POULSEN, Secretary

DS/DP



**HOUSE OF REPRESENTATIVES**  
**STATE ADMINISTRATION** \_\_\_\_\_ **COMMITTEE**

**ROLL CALL**

**DATE**

1/6/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP. GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

HOUSE STANDING COMMITTEE REPORT

January 6, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 54 (first reading copy -- white) do pass .


Signed: *Dick Simpkins*  
Dick Simpkins, Chair

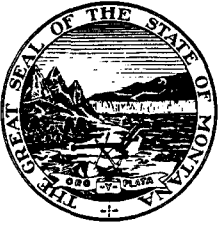
HOUSE STANDING COMMITTEE REPORT

January 5, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report  
that House Bill 55 (first reading copy -- white) do pass .

Signed:   
Dick Simpkins, Chair



*The Big Sky Country*

## MONTANA HOUSE OF REPRESENTATIVES

### REPRESENTATIVE ERVIN DAVIS

#### HOUSE DISTRICT 53

HELENA ADDRESS:  
CAPITOL STATION  
HELENA, MONTANA 59620

HOME ADDRESS:  
P.O. BOX 63  
CHARLO, MONTANA 59824

COMMITTEES:  
EDUCATION, VICE-CHAIRMAN  
STATE ADMINISTRATION

TESTIMONY  
January 5, 1993

MR. CHAIRMAN AND MEMBERS OF THE EDUCATION COMMITTEE: For the record, my name is Ervin Davis, Representative HD 53.

House Bill 55 is a bill to restore to a retired member of the Teachers' Retirement System the member's full normal form of retirement allowance if the designated beneficiary precedes the member in death.

*SOME LANGUAGE CHANGES. BUT MAJOR CHANGE - P. 3, line 25 - (Sec. 4)*

There are proponents to speak on the bill. I'd like to reserve the privilege to close. Thank you.

EXHIBIT 1  
DATE 1/6/93  
HB 55

TESTIMONY  
Teachers' Retirement Board  
Presented by David L. Senn  
January 6, 1993

Bill Title

"An Act restoring to a retired member of the Teachers' Retirement System the members's full normal form of retirement allowance if the beneficiary designated at the time of retirement for certain optional retirement allowances precedes the member in death; amending section 19-4-702, MCA."

Purpose

Under current law, in lieu of benefits payable for life only, a retiree may elect one of five specific options, A through E, or F, an option of the member's design which must be an actuarial equivalent benefit. However, should the beneficiary die before the retiree, the retiree's monthly benefit either continues at the optional amount or is further reduced if the member elected option D or E. This legislation provides for a "Pop-Up" feature that would automatically restore the retiree's monthly annuity to the full "Normal Form" amount if the designated beneficiary precedes the retiree in death.

With the pop-up feature options D and E would be repealed and, to provide funding for this proposal, the factors under option A, B, and C will be slightly smaller than current factors (1% to 2%). This proposal will have no affect on current retirees or on benefits effective prior to the effective date of the legislation.

Retirement Options

- OPTION A:    Joint and Full to Beneficiary  
Benefits are paid during the member's lifetime and upon their death, their beneficiary continues to receive the same monthly benefit during the remainder of his/her lifetime.
- OPTION B:    Joint and One-Half to Beneficiary  
Benefits are paid during the member's lifetime and upon their death, their beneficiary receives one-half of the member's monthly benefit during the remainder of his/her lifetime.
- OPTION C:    Joint and Two-Thirds to Beneficiary  
Benefits are paid during the member's lifetime and upon their death, their beneficiary receives two-thirds of the member's benefit during the remainder of his/her lifetime.
- OPTION D:    Joint and One-Half to Survivor  
This benefit is payable while both the member and their beneficiary are living. Upon the death of either, the survivor will receive one-half of the monthly benefit during the remainder of his/her lifetime.
- OPTION E:    Joint and Two-Thirds to Survivor  
This benefit is payable while both the member and their beneficiary are living. Upon the death of either, the survivor will receive two-thirds of the monthly benefit during the remainder of his/her lifetime.

EXHIBIT 2  
DATE 1/6/93  
HB 55

EXAMPLE

**MEMBER AND BENEFICIARY SAME AGE**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	89.37%	94.39%	92.65%	100.00%	96.19%
Proposed Law	<u>88.10%</u>	<u>93.68%</u>	<u>91.74%</u>	NA	NA
Difference	1.27%	0.71%	0.91%		

**MEMBER TWO YEARS OLDER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	88.42%	93.86%	91.97%	98.48%	94.88%
Proposed Law	<u>87.70%</u>	<u>93.45%</u>	<u>91.45%</u>	NA	NA
Difference	0.72%	0.41%	0.52%		

**MEMBER FIVE YEARS OLDER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	87.05%	93.08%	90.98%	96.53%	93.15%
Proposed Law	<u>86.12%</u>	<u>92.54%</u>	<u>90.30%</u>	NA	NA %
Difference	0.93%	0.54%	0.68%		

**MEMBER TWO YEARS YOUNGER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	90.33%	94.92%	93.34%	101.72%	97.62%
Proposed Law	<u>88.91%</u>	<u>94.13%</u>	<u>92.33%</u>	NA	NA
Difference	1.42%	0.79%	1.01%		

**MEMBER FIVE YEARS YOUNGER THAN BENEFICIARY**

<u>Options</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Current Law	91.75%	95.70%	94.34%	104.72%	100.00%
Proposed Law	<u>90.12%</u>	<u>94.80%</u>	<u>93.19%</u>	NA	NA
Difference	1.63%	0.90%	1.15%		

Percentages are a percent of the full "Normal Form" amount available to the member. Under the Normal Form, monthly benefits terminate with the death of the member.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

STATE ADMINISTRATION COMMITTEE BILL NO. HB 65

DATE 1/6/93 SPONSOR(S) REP. Vicki Cocchiarella

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tim Shanks - GT Falls	MT Police Protective Assn	✓	
Art Whitney <sup>Helena</sup>	Assoc. Mt. Ret. Pnd. Emg.	✓	
John M. DeWilder	AMRPE	✓	
David Seng	Teachers' Retirement Board	✓	
James Schneider	MPEA	✓	
Linda King	PERD	✓	

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**HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER**

STATE ADMINISTRATION

COMMITTEE

BILL NO. HB 55

DATE 1/16/93

SPONSOR(S) Rep. Ervin Davis

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Waldron	MREA		
David Sean	Teachers' Retirement Board	✓	
David Ewenso	U-System	✓	

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