

MINUTES

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

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIR, on January 15, 1993, at
9:00 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. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Norm Wallin (R)

Members Excused: Rep. Sheila Rice

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 107; HB 112; HB 134
Executive Action: HB 112

Announcements/Discussion:

REP. SIMPKINS advised the committee of a letter received from the
Hill County Clerk and Recorder opposing HB 71. **EXHIBIT 1**

HEARING ON HB 112Opening Statement by Sponsor:

REP. BOB REAM, House District 54, Missoula, introduced HB 112 which would provide for a vested member of the teachers' retirement system to receive, without cost, creditable service for active duty military service during the Korean conflict. Currently, veterans of both World War II and Viet Nam are credited with their service in the teachers' retirement system; Korean veterans are not similarly credited. **REP. REAM** stated that the bill was designed to correct this inequity in the Teachers' Retirement System by extending to Korean veterans the same credit for military service.

REP. REAM explained that the fiscal note used a worst case scenario in determining the fiscal impact by assuming that all 89 current members of the Teachers' Retirement System who were between 18 and 26 years of age at the time of the Korean conflict would have three years of additional service to be credited. He stated that since he is one of these 89 and did not serve in Korea, he thinks that probably only 10-12 members would be affected, and the cost to the system would be about \$15,000 per member. **REP. REAM** stated that this cost is not to the general fund but to the Teachers' Retirement System itself.

Proponents' Testimony:

Dick Dunn, Faculty member, University of Montana, stated that veterans appreciate the recognition of their contribution to their country. He held that HB 112 addressed a fairness issue by treating Korean war veterans in the same manner as veterans of World War II and Viet Nam.

David Senn, Executive Director, Teachers' Retirement System, presented written testimony describing the history of military credit allowed in the Teacher' Retirement System. He explained that for the fiscal note he had identified the male individuals who were of age to serve in the Korean War; those individuals would now be between 57 and 69 years of age. If all 89 of those individuals had served and had an average of three years of credit, then the cost to the retirement system would be \$1.4 million, or about \$15,000 per person, and would increase the unfunded actuarial liability amortization period from 34.9 to 35.0 years. **Mr. Senn** stated that the Teachers' Retirement Board, following the recommendation of the system's actuary, is on record as supporting HB 112 without an increase in the contribution rate. **EXHIBIT 2**

Don Waldron, Montana Rural Education Association, provided written testimony stating that so long as HB 112 is fiscally sound, the MREA supports the bill. **EXHIBIT 3**

Phil Campbell, Montana Education Association, stated that MEA wants to be on record as supporting HB 112. According to **Mr. Campbell,** the bill represents a negligible cost to the retirement system and addresses a fairness issue.

John Malee, Montana Federation of Teachers, stated that the Federation would also like to be on record in support of HB 112.

REP. SAM ROSE, stated that as a member of the Teachers' Retirement System and a veteran of the Korean conflict, he was a proponent of HB 112. He expressed his view that the exclusion of the Korean veteran was very discriminatory; and since the bill would not cost the state, he urged committee support.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. MOLNAR asked **Mr. Senn** his opinion of increasing the \$700 million unfunded liability of the Teachers' Retirement System by passage of HB 112. **REP. MOLNAR** stated that he viewed HB 112 as addressing a fairness issue; but that during a briefing on public retirement systems, committee members had been cautioned about increasing the unfunded liability or the amortization period through retroactive actions such as HB 112. **Mr. Senn** responded that the Teachers' Retirement Board had discussed this specific issue and decided that HB 112 was in the best interest of members. He noted that HB 112 did have a cost and would increase the amortization period from 34.9 to 35.0 years. He continued, however, that overall the amortization period has been reduced from about 37 years in the last two years so progress in reducing the amortization period is occurring. **Mr. Senn** concluded that because the system's funding mechanism is strong and because HB 112 is a fairness issue, the Teachers' Retirement Board supports HB 112.

REP. MASON asked **Mr. Senn** for the current amount of unfunded liability in the Teachers' Retirement System and the amount that HB 112 would increase the liability. **Mr. Senn** said that the current unfunded liability is \$579.4 million, and the bill would result in an increase of \$1.4 million.

REP. GALVIN asked **Mr. Senn** whether the fiscal note applied to 89 individuals who may or may not be eligible under HB 112 and that, in fact, many fewer people may be eligible. **Mr. Senn** agreed that HB 112 may affect fewer than 89 people.

REP. SIMPKINS asked **Mr. Senn** whether he expected the unfunded liability to increase until sufficient money is in the system for interest earnings to reduce the liability. **Mr. Senn** concurred.

Closing by Sponsor:

REP. REAM, in closing, stated that the fiscal note gives the outer limit of the cost of HB 112. He clarified his earlier statement with regard to the bill having no general fund impact; if all 89 individuals were Korean veterans, there would be a cost of \$3,400 in FY 94 and \$3,600 in FY 95. This cost results from teachers who are members of the Teachers' Retirement System and work for the School for the Deaf and Blind, Office of Public Instruction, or instructional programs in the Departments of Family Services and Corrections and Human Services. **REP. REAM** concluded that HB 112 addresses a fairness issue by bringing the Korean veterans into conformity with other veterans.

HEARING ON HB 134**Opening Statement by Sponsor:**

REP. MARY LOU PETERSON, House District 1, Eureka, introduced HB 134 by request of the Board of Crime Control. The bill would allow the Board of Crime Control to suspend or revoke the certification of peace officers, public safety communications officers, detention officers, and detention center administrators and provides penalties for violation of the suspension or revocation. **REP. PETERSON** stated that currently, if Montana peace officers are removed from their positions because of an unlawful act, they may move to another state and continue to have Montana certification. She referred committee members to Page 2, line 4, which describes the penalty for acting as a police officer without certification, and to Page 7, lines 16-19, which gives the Board of Crime Control the authority to develop procedures for revoking or suspending certification.

Proponents' Testimony:

Gene Kiser, Director, Montana Peace Officers' Standards and Training (POST) Advisory Council, stated that HB 134 has been recommended by the POST Council. The Council certifies peace officers, detention officers, and communications officers within the State of Montana, but currently there is no mechanism for suspending or revoking licenses once issued. In the case of peace officers, for example, the license is issued for five years. Thus, peace officers could continue to use their licenses for some time in another Montana community or another state even after they had been dismissed from a law enforcement agency for improper actions. For such circumstances, the Board of Crime Control seeks the authority to develop the procedures to suspend or revoke certification. **Mr. Kiser** stated that Montana is one of 13 states not to have a mechanism for revoking or suspending licenses.

Col. Bob Griffith, Montana Highway Patrol and Chairman, Peace Officers' Standards and Training Council, stated that when police officers are dismissed for cause, they should not be able

to retain Montana certification and seek employment in another jurisdiction.

Bill Ware, Chief of Police, Helena, and Legislative Chairman for the Montana Association of Chiefs of Police, stated that, for reasons already cited, the Chiefs of Police support HB 134.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. GALVIN asked **Col. Griffith** whether a peace officer would be able to lose his/her certification under HB 134 based on an accusation which may, in fact, be false. **Col. Griffith** responded that in the case of the highway patrol, if someone makes a complaint against a patrolman and an initial investigation indicates substantial cause for the complaint, then the officer may be suspended. Generally, the suspension would be with pay; the law prohibits suspending without pay for more than 30 days.

REP. GALVIN asked **Mr. Kiser** whether there was federal law regarding the procedures for revocation or suspension of the certification. **Mr. Kiser** answered that he was unaware of any federal statutes which revoked state licensing or certification.

REP. DAVIS asked **Mr. Kiser** how procedures for revocation would be developed to address a situation in which a peace officer agrees to resign because of wrongful actions rather than the agency firing or suspending the officer. **Mr. Kiser** explained that the revocation/suspension procedures would not become effective until the employing agency had dismissed the officer from duty. At that time, the agency would report the dismissal to the Crime Control Board. If the dismissal was for cause, then the revocation process would be initiated.

REP. SQUIRES asked **Mr. Kiser** whether HB 134 would affect reserve officers. **Mr. Kiser** responded that because reserve deputies do not fall under the certification process, they would not be affected by HB 134; the local sheriff or police chief determines whether reserve officers are qualified.

REP. SQUIRES asked **Mr. Kiser** whether the local sheriff or police chief would disqualify reserve officers for their wrongful actions. **Mr. Kiser** stated that, speaking only for himself, as an administrator, he would disqualify such individuals from serving as reserve officers.

REP. SQUIRES asked **Mr. Kiser** whether a \$25 penalty was sufficient for violating the suspension. **Mr. Kiser** stated that having a penalty was of more concern than the size of the penalty.

REP. MOLNAR asked **Mr. Kiser** whether a person charged with, e.g., sexual harassment, who leaves voluntarily prior to an investigation, could then be employed by another law enforcement agency and avoid losing their certification. **Mr. Kiser** answered that such a situation could occur, but when the person resigned, the local sheriff or police chief could request the Crime Control Board for revocation or suspension. The Board could then investigate and determine whether revocation or suspension of certification should occur.

REP. SCHWINDEN asked **Mr. Kiser** to describe the composition of the Crime Control Board. **Mr. Kiser** responded that the members of the Board are appointed by the governor and represent a cross-section of citizens including a police chief, mayor, county commissioner, sheriff, and representatives from the House, Senate, higher education, Department of Justice, and attorney general's office. **REP. SCHWINDEN** asked how many members were on the Board, and **Mr. Kiser** answered there were 18 members. **REP. SCHWINDEN** asked whether any women were on the board, and **Mr. Kiser** answered that there were.

REP. ROSE stated that he was a member of the police commission in Choteau, and that officers have the right to a police commission hearing prior to involvement of the Crime Control Board. He contended that police officers' rights were well-protected.

Closing by Sponsor:

REP. PETERSON closed by emphasizing that peace officers' rights would be protected, and that they could not lose their license on the basis of an accusation only. She stated that the purpose of HB 134 is to allow the Board of Crime Control to develop procedures for suspending or revoking certification of the "bad apple".

HEARING ON HB 107

Opening Statement by Sponsor:

REP. JOHN COBB, House District 42, Augusta, introduced HB 107, which transfers the duty of conducting sunrise audits from the legislative audit committee to the administrative code committee, by request of the Legislative Audit Committee. **REP. COBB** explained that due to the large number of professional groups who had requested legislation to create boards to license and control their profession, the Legislature, in 1989, passed a bill requiring sunrise audits. The purpose of the sunrise audit is to review the merits of the proposed board and to help the professional group draft legislation to recommend to the legislature. The responsibility for the audits was given to the legislative audit committee. **REP. COBB** stated that because the sunrise audit was not truly an audit, and because these audits detracted from the legislative audit committee's other responsibilities, the committee asked that the duty be reassigned

to another agency. According to **REP. COBB**, the administrative code committee already has responsibility for reviewing rules and therefore appears to be a more appropriate agency for the sunrise audit function.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. SQUIRES asked **Jim Nelson, Legislative Auditor's Office**, how much time was involved in conducting sunrise audits. **Mr. Nelson** responded that it took a small percentage of his time, perhaps a few hundred hours.

REP. SQUIRES asked if there was funding for sunrise audits. **REP. COBB** responded that the professional group requesting an audit paid an application fee of \$1,000 which was used to finance the cost of the hearing on the proposed legislation.

REP. SQUIRES asked **REP. COBB** whether the administrative code committee would need to meet more often than it currently meets in order to conduct sunrise audits. **REP. COBB** replied that the administrative code committee would need to meet more often; the legislative audit committee completed four sunrise audits in two meetings.

REP. SQUIRES asked **REP. COBB** whether the legislative audit committee had the spending authority to conduct sunrise audits. **REP. COBB** responded that the legislative audit committee used the \$1,000 application fee for expenses.

REP. MASON asked **REP. COBB** whether sunrise audits were worthwhile, or whether it would be better to eliminate them completely. **REP. COBB** replied that sunrise audits help in narrowing issues and drafting legislation, tasks which may otherwise require a legislative subcommittee. He continued that the Senate strongly supports the sunrise audit concept, but the legislative audit committee would like some changes in the current process.

REP. WALLIN asked **Mr. Nelson** whether he audited the boards. **Mr. Nelson** clarified that a sunrise audit was not a true audit, but more of an administrative review. **REP. WALLIN** asked whether someone else had the time to conduct sunrise audits. **REP. COBB** answered that the key issues were which agency had the staff and time to conduct the audits and which agency's function was most compatible with the task.

Closing by Sponsor:

REP. COBB closed by repeating that the legislative audit committee believes that the sunrise audit is a more appropriate function for the administrative code committee.

EXECUTIVE ACTION ON HB 112

Motion: REP. ROSE MOVED HB 112 DO PASS.

Discussion:

REP. SIMPKINS clarified that HB 112 could have a cost to the general fund of up to \$3,400 in FY 94 and \$3,600 in FY 95 because of teachers who work at the state schools.

REP. MOLNAR said that he viewed HB 112 as addressing a fairness issue for Korean veterans and asked whether World War II veterans would seek similar coverage. REP. SIMPKINS responded that other veterans were already included in the retirement system.

REP. ROSE maintained that there was no reason for excluding the veterans of the Korean conflict.

REP. GERVAIS reported that he had carried the bill to extend benefits to Viet Nam veterans, and that he had encountered the same difficulty with the fiscal note in that no one knew absolutely how many individuals would be affected.

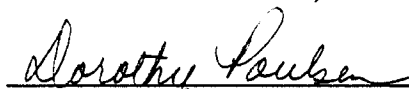
Vote: HB 112 DO PASS. Motion carried unanimously with REP. RICE absent.

REP. SIMPKINS distributed maps showing the geographic districts described in SB 36 for the committee's information. **EXHIBIT 4**

ADJOURNMENT

Adjournment: 10:17 a.m.


DICK SIMPKINS, Chair


DOROTHY POULSEN, Secretary

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION

COMMITTEE

ROLL CALL

DATE 1/15/93

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 15, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 112 (first reading copy -- white) \ and be placed on consent calendar .

Signed: _____
Dick Simpkins, Chair

County of Hill

OFFICE OF THE CLERK AND RECORDER
HILL COUNTY COURTHOUSE
HAVRE, MONTANA 59501

Clerk and Recorder Diane E. Mellem
Deputy Carolyn Patrick
Deputy E. A. 'Betty' Williams
Deputy

12 January, 1993

House State Administration Committee
Montana State House of Representatives
Capitol Building
Helena, Montana 59620

Dear Members of the Committee:

Please do not pass HB71. One of our most difficult tasks in the election process is finding people (men or women) who are willing to serve as precinct judges. Please believe me when I say that finding enough judges is a feat in itself, and any law compelling an equal number of men and women will make the task impossible. Please ask yourselves, "Will I be willing to serve as an election judge for the next election cycle?" Your answer will reflect today's busy lifestyle considerations and ultimately probably be much the same answer we get time after time..."I'd like to, BUT..." I urge you to not pass a law that will hinder, not enhance the election process.

Thank you for your consideration.

Sincerely yours,



Diane E. Mellem
Hill County Clerk and Recorder

EXHIBIT 1
DATE 1/15/93
HB 71

TESTIMONY - HB 112

Teachers' Retirement Board
Presented By David L. Senn

January 15, 1993

HB 112 will grant to members of the Teachers' Retirement System hired after July 1, 1971, credit for up to four years of active duty service during the Korean conflict at no cost. This provision was repealed in 1971.

The following legislative changes have been made regarding military service credits under the Teachers' Retirement System.

1971 - The military credit provision was repealed.

1973 - Members were granted the right to purchase 2 years of active duty service provided they had 5 year of TRS membership service.

1981 - Members were granted up to 4 years of military service credit at no cost for active duty during the Vietnam conflict (August 5, 1964 - May 7, 1975).

1989 - The recognized period of the Vietnam conflict was changed to December 22, 1961 - May 7, 1975.

What is the cost of this proposal? If we assume that only current members, hired after July 1, 1971, who were between 18 and 26 during the Korean conflict are eligible, we find 89 members who may receive service credit. (This corresponds to people who are now 59 to 67 years old.) If all 89 received an average of 3 years of additional service, the System's present value of benefits would increase by approximately \$1.4 million and the unfunded actuarial liability amortization period as of July 1, 1992 would increase from 34.9 years to 35.0 years.

To maintain the current 34.9 year amortization period, the required employer contributions rate would increase by .012% from 7.459% to 7.471%. If the number of eligible members is less than 89, the cost would decrease proportionally.

This proposal will apply to all current members. Those who have purchased creditable service for active duty during the Korean conflict as defined in this bill may apply for a refund.

Thank you for your consideration of HB 112.

EXHIBIT 2
DATE 1/15/93
HB 112

NAME Don Waldron

ADDRESS P.O. Box # 5418

HOME PHONE 449-2403 WORK PHONE 442-8813

REPRESENTING Mt Rural Teachers Assn

APPEARING ON WHICH PROPOSAL? HB 112

DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

~~As~~ As long as this is fiscally
sound our group is in full support
of HB 112 -

EXHIBIT 3
DATE 1/15/93
HB 112

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

SENATE BILL 36 - SECTION 1 (2)

MONTANA

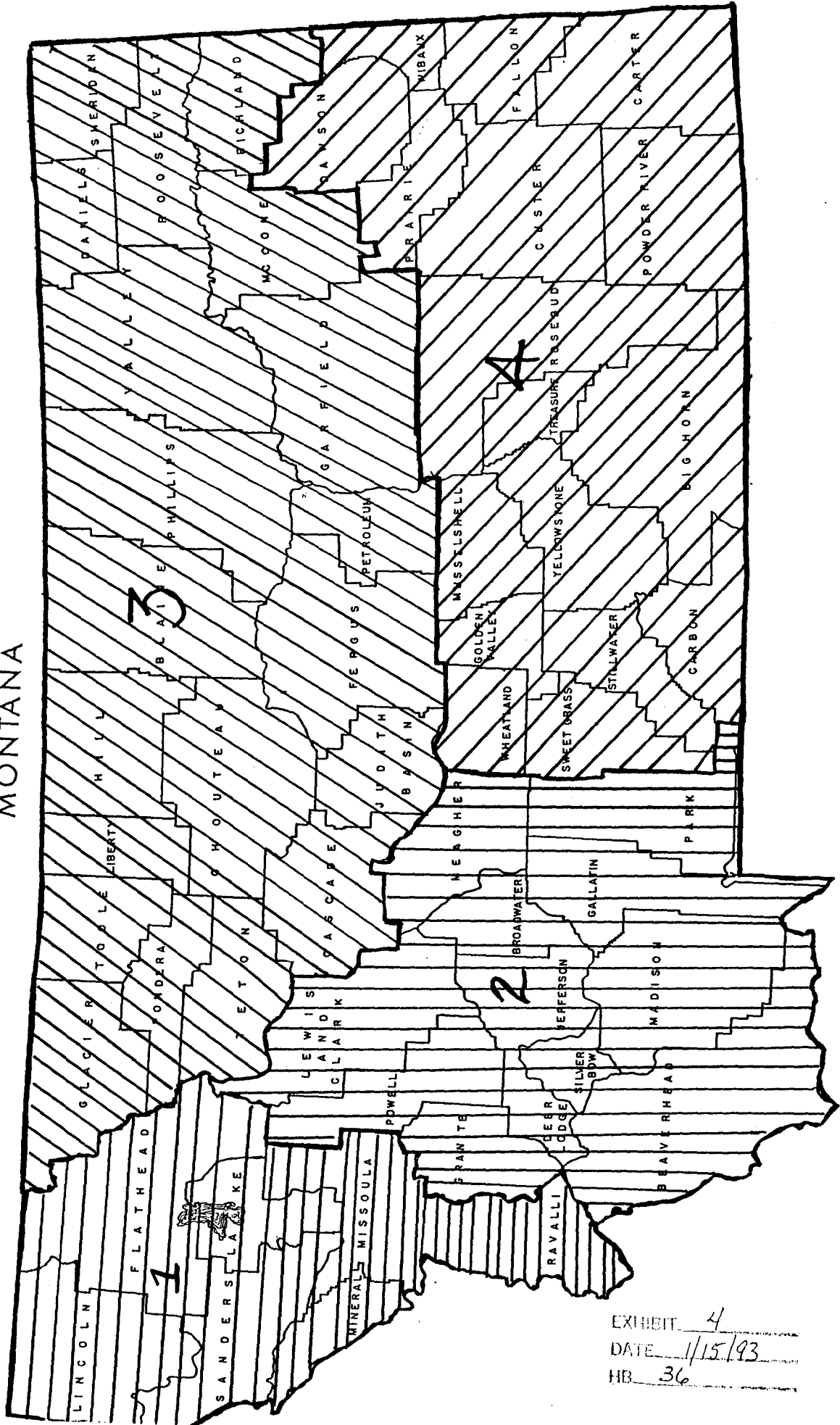


EXHIBIT 4
 DATE 1/15/93
 HB 36

