

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By Senator Eleanor Vaughn, on February 2, 1993,  
at 10:00 a.m.

**ROLL CALL**

**Members Present:**

Sen. Eleanor Vaughn, Chair (D)  
Sen. Jeff Weldon, Vice Chair (D)  
Sen. Jim Burnett (R)  
Sen. Harry Fritz (D)  
Sen. John Hertel (R)  
Sen. Bob Hockett (D)  
Sen. Bob Pipinich (D)  
Sen. Bernie Swift (R)  
Sen. Henry McClernan (D)  
Sen. Larry Tveit (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** David Niss, Legislative Council  
Deborah Stanton, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 203, SB 204, SB 205  
Executive Action: SR 3

**HEARING ON SB 203**

**Opening Statement by Sponsor:**

Sen. Fritz presented SB 203 and explained it would provide for a 5% increase in the monthly service, disability or survivorship benefit being paid to retired members of the Public Employees Retirement System. He explained this has occurred in the past but not since 1987. In the six years since, members benefits have not kept up with the cost of living or with the consumer price index. There is no provision for any automatic cost of living allowance and so it becomes necessary from time to time to make these adjustments.

**Proponents' Testimony:**

Art Whitney, Vice President of the Association of Montana Retired Public Employees gave written testimony (Exhibit #1).

Tom Schneider, Montana Public Employees Association, spoke in favor of SB 203. He explained the number one method of addressing this issue would be an ongoing, automatic cost-of-living statute which would be funded by both the employer and the employee. He told the Committee MPEA issued a resolution authorizing MPEA to increase the employee contribution; he explained that is a difficult thing to do and they have been trying to do that since 1971. People who retire are affected by inflation and have no other way to get an increase in their retirement benefits because the systems do not provide a mechanism for that. He stated SB 203 comes from the frustration of the retirees. He explained the system can afford to do that a lot better than the retirees can afford not to have the increase. There is a billion dollars in the system and this bill is not going to cost much money. The real problem the retirees have today is health insurance. The fastest growing negative group in the health insurance program is the retirees. Mr. Schneider told the Committee there will be substantial increase in the health insurance costs this year and probably this 5% will do nothing more than pay for the retiree health insurance increase. He explained if SB 203 passes the employee contribution cannot be increased if the benefit goes only to the retirees. That would be illegal. The only time the employee contribution can be increased is if there is a light benefit increase to the current working employees. He stated this bill does not do that, the employer would have to be assessed the cost.

Larry Nachtsheim, former administrator of Public Employees Retirement Division, spoke in favor of SB 203 as a private citizen. In state administered systems other than PERS and Teachers Retirement there have been increases, i.e., game wardens, sheriffs, highway patrol, police officers and firefighters retirement. Increases in the smaller system it is not very costly. He explained the problem is PERS has 28,000 members, in excess of 9,000 retirees. The Public Employees Retirement Board has never presented a bill to the Legislature to increase retirement benefits.

John Malee, Montana Federation of Teachers and Montana Federation of State Employees, rose in support of SB 203.

**Opponents' Testimony:**

Mark Cress, Public Employees Retirement Board, spoke in opposition to SB 203 and submitted Exhibit #2. He explained the need for the increase of benefits is there, and there have been increases over the last four years. He told the Committee those have been funded out of excess earnings on the investments of the retirement fund. Those increases have been small. He stated

there is no funding mechanism in SB 203. He explained the fiscal note shows costs for FY94 and FY95 and for the total of the cost -- \$28.6 million. Those dollars will be drawn out of the retirement pension fund over the years and there is no mechanism for increased contributions to put those dollars back. Mr. Cress stated this is a short term solution and is not an appropriate long term solution. This kind of increase in benefit cannot be provided without looking at how they should be paid. He also expressed concern about the 5% increase in the benefit which is affective for anyone who retired before July 1, 1993. This would mean if a person retires in June of 1993 he will get that 5% increase immediately even though they have not experienced the effects of inflation. Mr. Cress told the Committee that in past increases, either the increase has been phased in over a period of time or has been delayed.

**Questions From Committee Members and Responses:**

Sen. Burnett asked Mark Cress if it were possible to phase this in over several years. Mr. Cress said the Committee could look at phasing in; the percentage of an increase based on how long since the person has retired, or delay the effective date.

Sen. Swift asked Mr. Cress what the status of the funding is at the present time. Mr. Cress said the fund is earning interest on the assets of 9%, the actuarial required rate is 8%. The extra percent is what funds the post retirement bill. He explained that is divided between the active members currently employed, a share toward retirees and a share for the retirees being distributed. It is distributed as a fixed dollar amount for every year of service. That amount is amortized for the expected life of the retiree. People who are older and have a smaller benefit get a larger percentage increase. People who are younger and have a larger benefit get a smaller percentage increase.

Sen. McClernan asked Mr. Cress if the fund was actuarially sound. Mr. Cress told the Committee it was.

Sen. Hertel asked Mr. Cress if the funds noted in the fiscal note comes from the General Fund. Mr. Cress said the amount in the fiscal note would be drawn from the pension fund and there is no provision in the bill to raise the contributions to recover that money.

Sen. Hockett asked Sen. Fritz if this was a one time 5% or an annual 5%. Sen. Fritz stated it was a one time increase.

Sen. Hockett asked if anyone considered deferring the eligibility in terms of how it would affect the unfunded liability. Sen. Fritz said, "No".

Sen. Hockett asked if this would apply only to Montana residents. Sen. Fritz stated it applies to members of the Public Employees Retirement System.

Sen. Hockett asked Mr. Cress if he was aware of what other states were using this. Mr. Cress told the Committee he was not.

**Closing by Sponsor:**

Sen. Fritz told the Committee there has been no long-term permanent solution for more than 20 years. He explained health care costs drive state budgets and individual budgets and this increase is necessary if only to meet the health care cost increase. He stated there is financial soundness of the Board's funds. The fund is actuarially sound. This bill does not increase it much, it keeps it well within the bounds of actuarial soundness. The testimony has enhanced the prospects of this measure.

**HEARING ON SB 204**

**Opening Statement by Sponsor:**

Sen. Fritz presented SB 204. He told the Committee SB 204 would allow public employees' retirement board to select it's own administrator and support staff as the Board of Investments and the Teachers' Retirement System does now. Currently, the administrator and the staff are appointed by the Department of Administration to which the board is attached for administrative purposes. He stated an amendment has been suggested for this bill which amends another section of the law where the board is mentioned, but it says the same thing, that the board should be allowed to choose its own administrator and staff.

**Proponents' Testimony:**

Paul Smetanka stated he has no immediate interest in this bill but wanted to tell the Committee it is the right thing to do. He explained from 1985 to 1991, under two separate administrations, he served as legal counsel to the Department of Administration and he was assigned to the Public Employees' Retirement Board. He stated there are potential conflicts of interest between the retirement system and the members and those board members charged to represent both the retirement system members and the retirees and the Department of Administration. The control of the staff and the administrator of the retirement system is unnecessary. It confuses the line of authority between the support staff and counsel that represents that board. Mr. Smetanka told the Committee this bill makes sense inasmuch as it protects trustees from the potential of undue political influence that can result from an executive branch agency.

Terry Teichrow, Public Employees Retirement Board, spoke in favor of SB 204 and gave written testimony (Exhibit #3).

Art Whitney, Association of Retired Public Employees, spoke in favor of SB 204. He stated there would be a better relationship with the board if they dealt with the entity that handles the

funds, that exist in the building owned by the funds, in charge of the staff paid by the funds. He told the Committee they should be in charge of that staff.

Larry Nachtsheim spoke in favor of SB 204 (Exhibit #4).

**Opponents' Testimony:**

Karen Fagg, Legislative Liaison for the Governor's office gave written testimony in opposition to SB 204 (Exhibit #5).

**Questions From Committee Members and Responses:**

Sen. Weldon asked Sen. Fritz if there was a fiscal note requested for this bill. Sen. Fritz said he did not know.

**Closing by Sponsor:**

Sen. Fritz stated it is not surprising that the opponent to the bill "is the person who represents the person who appoints the person who appoints the administrator of the Public Employees Retirement System", which probably indicates why that link should be broken. The Governor can still influence the board of the Public Employees Retirement System through his appointment power. The Public Employee Retirees are no longer a majority of state employees, most come from county and local retirement systems. The board of this trust fund needs to be endowed with responsibility through the right of electing its own administrators. That will enhance the independence of the system, it's a fiduciary responsibility and cuts any political connections.

**HEARING ON SB 205**

**Opening Statement by Sponsor:**

Sen. Fritz presented SB 205 and explained it would devise a process for reporting campaign expenditures to the Commissioner of Political Practices via computer software. He explained there is a hardship provision and some can still employ pen and paper in making the reports. For large campaigns it has become more proficient and efficient to submit reports via a computer disk. This bill defines software and allows the Commissioner of Political Practices to prescribe the kinds of software that would be used for reports. It provides for public access to that information as is currently the case. It charges political committees, not candidates, a small fee to cover any costs of this system. The bill has been vented by the Department of Administration and they have agreed to refine a system which prevents any kind of infection by virus and unwanted access; and would make it compatible with the computer system in the general government at large.

**Proponents' Testimony:**

Ed Argenbright, Commissioner of Political Practices, stated they would like to get into the electronic age and realize the efficiencies that could be achieved by moving in that direction. He explained there are some issues in the bill which should be dealt with carefully. He told the Committee there are three people on staff who are not familiar with such things as modems, etc. He explained the ability to technically design a system that would provide the kind of access that is contemplated in SB 205 is going to have to be looked at carefully. He told the Committee they would be willing to work with the Department of Administration to get the system going but will need at least one FTE in order to do it right.

Amy Kelley, Common Cause of Montana spoke in favor of SB 205 and gave written testimony (Exhibit #6).

Doug Mitchell, Secretary of States Office, spoke in support of SB 205. He told the Committee he was not testifying as a representative of the Secretary's office but as an individual. He explained he has been involved with political campaigns and uses software for many lists. He stated there are stacks of paper that contain names that can be compiled on one disk. The disks can be used to print out the names if desired but all the information anyone would need is on the disk. The technical design for a report exists. All reports are different so they are not compatible. He stated the need for a centralized way of doing this makes sense, it would increase the efficiency of campaigns and the Commissioner of Political Practices office.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Burnett asked about the cost of implementing this system. Mr. Argenbright said the appropriation mentioned is a \$100 fee on a political committee and that would generate \$20,000 every other year. He did not know what the equipment cost would be and there would also be training costs involved. One FTE could maintain the system. He told the Committee the benefit would cover the costs.

Sen. Burnett asked if they would assess political groups or the individual candidates. Ed Argenbright stated in the bill it has the \$100 on political committees and there is the opportunity for some committees to claim hardship.

Sen. Weldon asked about the software programs used. Mr. Argenbright stated they would use the expertise of the Department of Administration.

Sen. Weldon asked if the Commissioner of Political Practices would provide the political committees with the program. Mr.

Mitchell said it is an issue of discussion that is not laid out in the bill. He explained candidates would be willing to purchase the forms and menus that would be necessary to make a program run and there may be a prescription by the Commissioner.

Sen. Swift asked Mr. Mitchell about the cost to the candidates when he has to adhere to the compatibility requirements discussed here. How much time would it take to input the data into that process. Mr. Mitchell said the problem is it takes a lot of time to input the data. This bill would cure the problem of inputting data time after time. Under any circumstances something has to be done to data enter the information, either handwrite it, type it on a typewriter, or input in a computer.

Sen. McClernan asked Tony Herbert from the Information Services Division, Department of Administration to address the issue of hardware and software. Mr. Herbert told the Committee the concept of providing a common database is straight forward and possible under this type of arrangement. A new computer would probably be needed. He explained it has been estimated to run approximately \$10,000 with software and training. There has not been a fiscal note requested on this bill. The software would be something the offices would work on to establish the standards to fit well with other state standards that are in place. The Commissioner's office would explain to the political committees the kind of software they need to buy for their system in order to fit with the Commissioner's office. That may be a \$300 acquisition for a large campaign and it would be a one time expenditure. Then they would have to get from the Commissioner's office the format to load onto that software, enter it in through a diskette or a modem that the bill requires.

Sen. Hockett asked Mr. Argenbright when this system would be running. Mr. Argenbright said it would be as soon as possible.

Sen. Hockett asked Sen. Fritz if all political committees would pay the \$100 restoration fee. Sen. Fritz stated one of things being worked on is exempting small campaigns from this requirement.

**Closing by Sponsor:**

Sen. Fritz stated SB 205 would not expand access to campaign information and would not go beyond what current law stipulates is available. He explained the interest is in making that available in a more retrievable form. He told the Committee ISD is enthusiastic in ensuring there are no computer problems. He explained there will be a fiscal note requested for this bill and it will need a little work; there are some amendments that include the Department of Administration in the process and eliminates the Bulletin Board provision.

HEARING ON SB 213Opening Statement by Sponsor:

Sen. Pipinich presented SB 213. He told the Committee this is the second hearing on this bill. The proponents scheduled to appear at the first hearing will appear at this hearing. Sen. Pipinich asked the Committee if they were representing their constituents. The Committee said they were. Over the weekend Sen. Pipinich stated he checked on Sen. Weldon's district in which 65% of the people smoke. He stated Sen. Hockett has a big area who smoke, as well as Sen. Swift.

Proponents' Testimony:

Jerome Anderson from the Tobacco Institute spoke in favor of SB 213. He explained the Long Range Building Program was started in 1965 and has been very successful. It has realized in excess of \$288 million for construction of state building and maintenance of those buildings. He stated the plan envisions a bond reduction program with revenues coming from the sale of tobacco products. The bond reduction program is set up so money is put in a separate account; and if the money exceeds that necessary for bond reduction, the balance flows over into the General Fund. Mr. Anderson explained at the present time, there is no overflow; there's barely enough money to take care of the reduction program. He said some people have come to the conclusion that perhaps the tobacco revenues should be moved into another source. He told the Committee if that is done it will disrupt the very complicated bond reduction program. He stated Senate Bill 213 asks for fairness and equity by recognizing the source of funding. He told the Committee it's clear the State Department of Administration wants to place a total ban on the establishment of any smoking facilities in state buildings. The establishment of that policy is exemplified by the support of SB 100. He further stated, if this matter was left to the Department of Administration there would be no set aside facility. The state provides the facilities for a number of other selected groups in state buildings. The smoking group comprises the largest percentage of state employees, as well as public users, of public buildings of the entire group of people involved. He told the Committee he felt his group should be recognized for what the supporters have done in support of the building program. He pointed out there should be an amendment so the requirement does not apply to schools and colleges. The Long Range Building Program does not finance those facilities. He stated there have been comments made about the recent EPA study released. He said most studies did not find any relationship between cancers and environmental tobacco smoke. He reminded the Committee of the EPA study of Alar in which they destroyed the apple crop in Washington when they made the erroneous assumption of the effect of the use of Alar on people who ate those apples. He said \$288 million of tobacco money does merit some consideration of the rights of this substantial portion of the taxpayers of Montana.



Mark Staples, Montana Candy and Tobacco Wholesalers, spoke in favor of SB 213. He told the Committee SB 213 has logic to it, and has touched on the fairness issue. He explained \$288 million is paid by these taxpayers and they only seek a place to smoke. He stated this does not contradict the policy of the State of Montana to provide for a smokefree environment; it is intended to create a place where one person's freedom of choice is attended to. One person's choice which he/she has paid for in an enormous fashion is attended to while not impeding the other person's freedom of choice. He said Sen. Pipinich made it very clear a provision should be made for a smoking area for those people with the kinds of ventilation and airflow that allow the other people not to be invaded. He pointed out if there are no smokers, there is no tobacco tax.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Weldon asked Sen. Pipinich for a complete and accurate statement of the methodology of his survey including the survey sample and instrument. He also wanted a demographic analysis of the survey sample. He wanted a complete set of raw data and the analysis of the conclusions.

**Closing by Sponsor:**

Sen. Pipinich closed.

**EXECUTIVE ACTION ON SR 3**

**Motion/Vote:** Sen. Swift move SR 3 DO PASS. Motion SR 3 DO PASS CARRIED UNANIMOUSLY.

**ADJOURNMENT**

**Adjournment:** 12:00 noon.

  
\_\_\_\_\_  
SENATOR ELEANOR VAUGHN, Chair

  
\_\_\_\_\_  
DEBORAH STANTON, Secretary

# ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 2-2-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Niss	✓		

FC8

Attach to each day's minutes

PRELIMINARY  
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 3, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Resolution No. 3 (first reading copy -- white), respectfully report that Senate Resolution No. 3 be adopted.

Signed: Senator Eleanor Vaughn  
Senator Eleanor Vaughn, Chair



SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 2-2-93

BILL NO. SB 203

Association of Montana Retired Public Employees

Statement in Support of  
SB 203  
to Senate Committee  
on State Administration  
February 2, 1993

by Art Whitney  
Vice President  
AMRPE

The purpose of SB 203 is to give members of the Public Employees Retirement System the first increase in their retirement checks they have had since 1987 that can be called a cost-of-living adjustment. To explain this I need to define the terms COLA, GABA and Post Retirement Adjustment.

The first two are defined in the glossary of *A Legislator's Guide to Montana's Public Employment Systems* which was published by the Legislative Council. It defines COLA as an increase in a retiree's monthly benefit based on a rise in the cost of living. I would add that they are also usually given as an equal percentage to all recipients. At least they are usually given that way by the federal government to its retirees and to Social Security recipients, and were given equally by the PERS in 1987. GABA, which stands for Guaranteed Annual Benefit Adjustment, is an automatic increase in a retiree's monthly benefit allowance by an amount that is specified in statute but which may not be formally connected to the cost of living.

Post Retirement Adjustment is not defined in the Legislator's Guide. It mentions that "Montana's public retirement systems currently have limited post retirement adjustment provisions". Also in Table 8 it states that PERS retirees are paid a portion of the investment earnings above eight percent. The average amounts and percentages paid since the program started are:

YEAR	AMOUNT	PERCENT
1990	\$8.26	2.1%
1991	\$9.10	2.3%
1992	\$7.03	1.7%
1993	\$5.62	1.3%

These were described in a report titled *Public Retirement Systems Administered by the Public Employee's Retirement Board* which was presented to the Joint Interim Subcommittee on Public Employee Retirement Systems last year. That report didn't define what they were but rather what they weren't. It said "Finally, all the systems provide some means of automatically computing and paying adjustments to the retirement benefits of eligible retirees. However, none of these adjustments are cost-of-living adjustments (COLA'S) because they bear no real relationship to the increase in the actual cost-of-living which retirees face after retirement."

This is how the Consumer Price Index, Social Security increases and our Post Retirement Adjustments compare during the years since our last COLA.

<u>YEAR</u>	<u>CPI</u>	<u>SS INCREASE</u>	<u>POST RETIREMENT ADJUSTMENT</u>
87-88	4.4	4.1	0
88-89	4.4	5.0	0
89-90	4.6	4.8	2.2
90-91	6.1	4.4	2.3
91-92	3.1	3.2	1.7
<u>92-93</u>	<u>2.9</u>	<u>3.0</u>	<u>1.3</u>
<b>TOTAL</b>	<b>25.5%</b>	<b>24.5%</b>	<b>7.5%</b>

Thus our average increases over the past six years have come to less than one third of the increase in cost of living and the five percent increase SB 203 would provide will bring us up in total to only half the cost of living increase.

Not only have these small, average post retirement adjustments been well below the rise in cost of living, they have been considerably below just one of the major expense items all of us have, and that is the cost of our state health insurance.

Table 1 shows the increase in cost per month of state health insurance for five different categories of retirees from 1987 to 1983. The greatest increase was \$105 per month for a medicare retiree and spouse. Remember that retirees pay the full amount of this insurance. The state's monthly payment of a portion of this cost for employees ceases upon retirement.

Note that in every category the increase in health insurance cost in dollars exceeds the average post retirement adjustment in dollars. The difference between the benefit increase and insurance cost varies from \$13 per month for a medicare retiree only to \$75 per month for a medicare retiree and spouse. Thus on the average, the monthly pension checks received by PERS retirees who are under the state health insurance program, have actually become smaller after the insurance payments have been deducted. This is shown graphically in Figure 1.

As the fiscal note will show, this requested ad hoc 5 percent COLA can be funded by increasing the years of unfunded liability 2.2 years. That will represent no present cost increase to state government but it may slow the decline in the unfunded liability a few years. However, it will still be well in the range of what is considered proper or an actuarially sound system.

The goal of all retirement systems seems to be to get the years of unfunded liability to zero at which point then monies should be available for funding such things as automatic COLAS or earlier retirements. When that happy day arrives all members of

the system should be able to enjoy their retirement without having to ask the legislature for ad hoc adjustments every few years to keep from being overwhelmed by inflation.

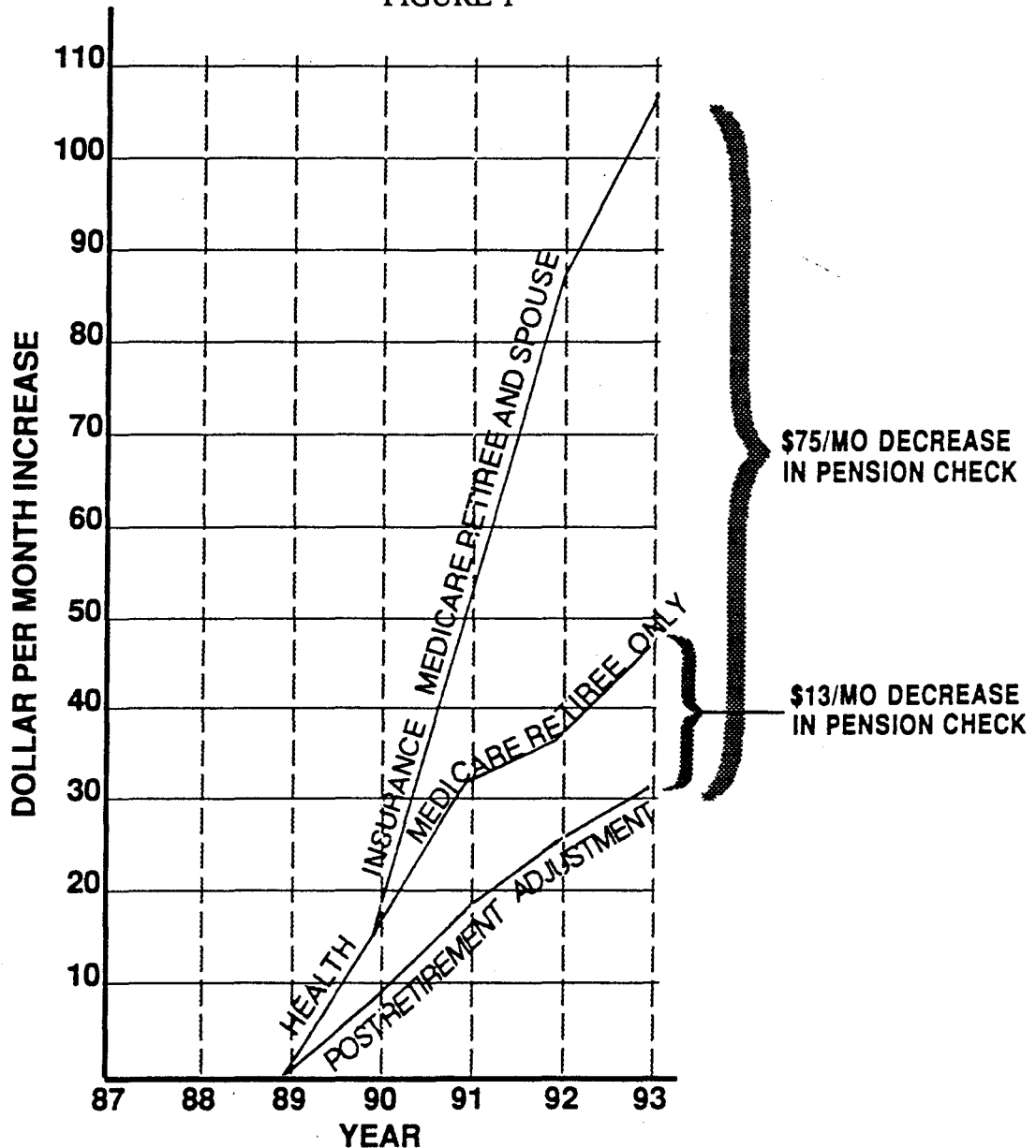
Reaching that goal will be nice for those persons in the system when it occurs. However the question of whether the system gets to that goal in the year 2011 or 2013 is simply not relevant to the majority of present PERS retirees because we won't be here to enjoy it in either year. We believe that it does not represent an illogical use of the fund to periodically delay its decrease in years of unfunded liability in order to allow occasional pension increases to a group of retirees whose incomes are being steadily eroded by inflation. We urge your support of SB 203.

TABLE 1

CHANGES IN THE COST PER MONTH OF THE STATE HEALTH INSURANCE PLAN FOR FIVE CATEGORIES OF PERS RETIREES FROM 1987 TO 1993, AND AVERAGE POST RETIREMENT ADJUSTMENT FOR THE SAME PERIOD.

<u>CATEGORY</u>	<u>1987</u>	<u>1993</u>	<u>DOLLAR INCREASE</u>	<u>PERCENT INCREASE</u>
Retiree Only	\$84	\$160	\$76	90%
Retiree and Spouse	\$129	\$229	\$100	78%
Medicare Retiree Only	\$51	\$94	\$43	84%
Medicare Retiree and Spouse	\$96	\$201	\$105	109%
Medicare Retiree and Medicare Spouse	\$88	\$174	\$86	98%
AVERAGE POST RETIREMENT ADJUSTMENT .....			\$30	7.5%

FIGURE 1





YEARS OF UNFUNDED LIABILITY IN THE PUBLIC EMPLOYEE'S RETIREMENT SYSTEM AT THE  
BEGINNING OF EACH OF THE LAST FIVE BIENNIUMS

<u>DATE</u>	<u>ESTIMATED YEARS OF UNFUNDED LIABILITY</u>
1 July 86	28.2 years
1 July 87	5.5% ad hoc pension adjustment granted
1 July 88	25.0 years
1 July 90	21.8 years
1 July 92	18.3 years

SENATE STATE ADMIN.  
 BILL NO. 2  
 DATE 2-2-93  
 BILL NO. \_\_\_\_\_

A BRIEF HISTORY OF PERS POST RETIREMENT BENEFIT INCREASES

<u>Date</u>	<u>Avg. Benefit Increase</u>	<u>CPI Increase</u>
7/1/1981	10.80%	
7/1/1982		6.44%
7/1/1983	6.90	2.46
7/1/1984		4.20
7/1/1985	5.50	3.55
7/1/1986		1.58
7/1/1987	5.50	3.93
7/1/1988		4.13
7/1/1989		4.70
1/1/1990	2.13	
7/1/1990		4.42
1/1/1991	2.26	
7/1/1991		4.70
1/1/1992	1.67	
7/1/1992		3.10
1/1/1993	1.30	
Average rate of increase:	3.15%*	3.93%
Compounded rate of increase:	42%*	52%

\*Does not include effect of 2.7% distributions to instate retirees under 19-15-102, MCA

*Smith* RESOLUTION NO. 3  
*Sen. G. G. Slaughter*

1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF  
 2 MONTANA:  
 3 That the Senate of the 53rd Legislature of the State of  
 4 Montana does hereby concur in, confirm, and consent to the  
 5 above nominations and that the Secretary of the Senate  
 6 immediately deliver a copy of this resolution to the  
 7 Secretary of State and to the Governor pursuant to section  
 8 5-5-303, MCA.

-End-

1 INTRODUCED BY *Sen. G. G. Slaughter*  
 2 BY REQUEST OF THE COMMITTEE ON STATE ADMINISTRATION  
 3  
 4  
 5 A RESOLUTION OF THE SENATE OF THE 53RD LEGISLATURE OF THE  
 6 STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING  
 7 TO THE NOMINATIONS AND APPOINTMENTS MADE BY THE GOVERNOR AND  
 8 SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 7, 1993, TO  
 9 THE SENATE.

10  
 11 WHEREAS, the Governor of the State of Montana has made  
 12 the nominations, below designated, of appointments that have  
 13 been submitted to the Senate by the Governor, to wit:

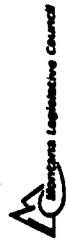
14 (1) As Director of the Department of Natural Resources  
 15 and Conservation, in accordance with section 2-15-3301, MCA:  
 16 Mr. Mark Simonich, Woodbridge, Virginia, appointed to  
 17 serve a term at the pleasure of the Governor.

18 (2) As members of the Pacific Northwest Electric Power  
 19 and Conservation Planning Council, in accordance with  
 20 section 90-4-402, MCA:

21 Mr. Stan Grace, Helena, Montana, appointed to serve a  
 22 term at the pleasure of the Governor.

23 Mr. John N. Etchart, Fort Worth, Texas, appointed to  
 24 serve a term at the pleasure of the Governor.

25



923  
INTRODUCED

PUBLIC EMPLOYEES RETIREMENT BOARD

TESTIMONY ON SENATE BILL 204

FEBRUARY 2, 1993

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 2-2-93

BILL NO. SB 204

1. The retirement board cannot fully execute its fiduciary responsibilities to members and retirees while the Department of Administration retains the authority to staff the retirement division.

A very real conflict of interest exists between the Department of Administration and the Public Employees' Retirement Board. On one hand, the Board is obligated to pay the reasonable expenses of the system that it administers (see 19-3-603(2), MCA). On the other hand, Board discretion is compromised by the statutory authority of DofA to appoint and fix the compensation of the PERD administrator and all other necessary employees (see 19-3-301(4), MCA). Further, the DofA reviews and submits the PERD operating budget and has attempted to influence the number of FTE who serve the Board. Also, the legislature continues to appropriate the PERD budget and authorizes the number of FTE who will serve the Board.

While DofA authority is an apparent outgrowth from the origin of the PERS as an exclusive state employee system, this authority is now antiquated. State employees constitute only 40 percent of the PERS. The other 60 percent are county, municipal and other political subdivision employees. Consequently, exclusive oversight, control or benefit manipulation by the executive and legislative branches as the sole PERS employer is no longer justified.

This conflict dramatically manifests itself upon retirement systems members and retirees when: reductions in employer contributions are suggested to balance state budgets; systematic cost of living adjustments are opposed as a matter of principle; either branch casts covetous eyes upon the trust funds that are to be exclusively administered by the Board.

Conflicts do not have to actually occur to warrant reform to the statutory scheme that actually promotes or merely allows their opportunity. The potential for PERD control by and through DofA hiring, firing and management of PERD employees refutes Board autonomy as set forth in sections 2-15-1009(4) and 2-15-121(1)(a), MCA.

In any event, the mere potential for manipulation of the division through control of its staff is enough to chill PERD Board from absolutely exercising their best judgement on behalf of the members and retirees they are obligated to serve.

2. **Current staffing of retirement division positions by the Department of Administration blurs the lines of accountability for key employees.**

Can the PERD administrator effectively serve the Board when he or she is hired, compensated and managed through an intermediary, the DofA? Can the Board's attorney effectively function if he or she is responsible to take direction from the Board, division administrator, the chief counsel and the director of the DofA?

What is clear here is the fundamental principle that all PERD employees and fiduciaries are in service to past and present retirement system members. However, this perspective is lost when and where multiple lines of authority distract key employees from serving the needs of those beneficiaries.

What is best for the legislature or executive branch may not be best for PERD beneficiaries. Given DofA's management and control of personnel, the administrator, assistant administrator and attorney, they are potentially, if not actually, inhibited from identifying what is best for members and retirees, let alone from effectively resisting what may not be best for those same two groups.

3. **This bill makes sense and I ask you to support and pass this bill.**

**FACT SHEET**

SENATE BILL NO. 204

SENATE STATE ADMIN.  
EXHIBIT NO. 4  
DATE 2-2-93  
BILL NO. SB204

The Public Employees' Retirement Board (formerly the Board of Administration) is charged with administering the following programs and retirement trust funds:

- 1. State Social Security Program (19-1-201) 1953
- 2. Public Employees' Retirement System (19-3-304) 1945
- 3. Judges' Retirement System (19-5-201) 1967
- 4. Highway Patrol Officers' Retirement System (19-6-201) 1945
- 5. Sheriffs' Retirement System (19-7-201) 1974
- 6. Game Wardens' Retirement System (19-8-201) 1963
- 7. Municipal Police Officers' Retirement System (19-9-201) 1975
- 8. Volunteer Firefighters' Compensation Act (19-12-201) 1965
- 9. Firefighters' Unified Retirement System (19-13-201) 1981
- 10. Retirement Adjustment (19-15-102) 1991

July 1, 1992

	<u>ASSETS</u>	<u>ANNUAL BENEFITS</u>	<u>INVESTMENT INCOME</u>
Bank	\$1.2 B	\$83.0 M	\$101.43 M
Market	\$1.379 B		

Board transferred over \$2.5 M to state general fund since June, 1986.

Board paid all administrative expenses of division from 1965 through 1985 from social security fund investment.

Both the Teachers' Retirement System Board and the State Board of Investments may hire its own administrator and staff.

The Public Employees' Retirement Board, the trustee of the largest accumulation of assets, may not.

Testimony Opposing SB 204

SENATE STATE ADMIN.

DEPT NO. 5

DATE 2-2-93

BILL NO. SB 204

(Allowing the Public Employees' Retirement Board to hire administrator and employees)

The administration opposes this bill.

\* SB 204 is contrary to the concept of good government. Some of you will remember Governor Forrest Anderson and the series of bills that were introduced between 1968 and 1972 and that are now referred to as "executive reorganization." A major thrust of this proposal was to streamline the executive branch by eliminating numerous independent boards and commissions. This theme was embodied in the 1972 constitution with the 20 department limit (Article 6, Section 7) on the executive branch. Montana state government is a far better organizational entity as a result of this effort. This streamlining has focused responsibility in the executive branch with an elected official, the governor, who is accountable to the public. Government works better under this "unity of command" principal. And it's best that an area such as retirement, with such large dollars and such important policy considerations, should report to an elected official. SB 204 would undue some of these efforts. SB 204 would result in fragmented government and less accountability of an important aspect of state government.

As members of the legislative and executive branches of government, we deserve more policy control than is sometimes afforded when a function is placed under an autonomous board.

\* The administration opposes SB 204 for practical reasons as well. We view retirement as one phase of an employee's life starting with recruitment, selection, a working career, and finally retirement. The Department of Administration, through its personnel division, covers the first area. The department, through the Public Employees' Retirement Division, covers the second area. Numerous subject areas overlap. For example:

-- dealing with employee organizations, for enhanced benefits, be they salaries or retirement benefits, is currently handled in a coordinated manner because both functions report to the director of the department.

-- issues involving health care affect both employees and retirees. Coordination of this area is critical. Currently, retirees are eligible to stay on the state health plan and contributions are paid to the personnel division.

-- the early retirement proposal you are considering this session has important implications for both personnel policy and retirement policy. We've also heard discussion of an idea where by the payout for employee's sick leave could be used to

purchase retirement credits. Both proposals affect both personnel policy and retirement policy.

These areas require close coordination if the legislature expects good information from the executive branch and close coordination for the implementation of policies which you choose to adopt. Retaining responsibility for this program within the Department provides continuity in delivery of these benefits throughout an employee's working lifetime and beyond.

\* If the Board is given authority to hire staff, the Department may lose some flexibility in managing to meet Department needs. For example, when a vacancy occurred in the State Personnel Division's administrator position last month, the Department filled the position by temporarily assigning the duties to the Public Employees' Retirement Division's administrator. This is a six-month arrangement that will be reassessed at a later date. But it is unlikely that this arrangement would have been possible if the Board had hiring authority. In these times of tight resources we need to maintain the flexibility to staff functions in as effective manner as possible.

\* Supervising a division requires a commitment of time and resources. It may be difficult for a board that meets once each month to effectively perform this function.

\* You may ask yourself "But the Teachers Retirement Board has the authority to hire and fire its staff; why shouldn't the Public Employees' Retirement Board have similar authority?" The legislature directly contributes an estimated \$16 million annually to the Public Employees' Retirement System. Another \$1.3 million annually is contributed to make up for the taxation of retirees benefits. You spend significant resources on PERS. Contributions to the Teachers' Retirement is not a direct state obligation except in some limited cases where teachers are state employees (Mountain View, for example). We do not bargain with teachers. We do not need to coordinate personnel policy and retirement policy for teachers. Personnel policy is handled by local school districts.

\* Finally, SB 204 has technical problems. The bill is vague and ambiguous as to who is a "technical or administrative employee." The proper way for this bill to be written would be to amend 2-15-1009, MCA to make clear who has the responsibility to hire and fire employees.

We oppose SB 204.



2-2-93  
SB-204

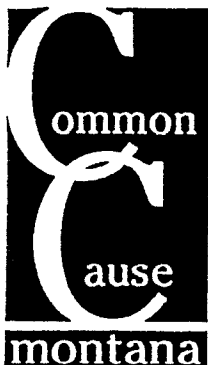
PARTIAL LIST OF BOARDS & COMMISSIONS  
WHICH HIRE OR DON'T HIRE STAFF

BOARDS THAT HIRE STAFF

Board of Housing  
Board of Regents  
Board of Investments  
Human Rights Commission  
Historical Society Board  
State Library Commission  
Teachers' Retirement

BOARDS THAT DON'T HIRE STAFF

Public Employees' Retirement System  
Board of Health  
Board of Natural Resources  
Fish Wildlife & Parks Commission  
Board of Personnel Appeals  
Highway Commission  
Approximately 30 occupational licensing boards attached to Department of Commerce



SENATE STATE ADMIN. 10  
EXHIBIT NO. 6  
DATE 2-2-93  
BILL NO. SB 205

COMMON CAUSE TESTIMONY  
IN SUPPORT OF SB 205  
FEBRUARY 2, 1993

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

Madame Chair, members of the Senate State Administration Committee, for the record my name is Amy Kelley, Executive Director of Common Cause/Montana.

On behalf of more than 800 Montanans who are members of Common Cause to help promote more open and accessible government in Montana, I register our support for SB 205.

This Committee has heard much testimony regarding the office of the Commissioner of Political Practices, and the need to find ways to increase its investigatory and enforcement capabilities without increasing its budget.

We feel a significant improvement could be made by reducing the percentage of staff time spent processing the tremendous amount of data that office must collect and inspect.

SB 205 is a practical measure, a way to modernize the office of the Commissioner, to minimize time spent on data entry and free up valuable staff time to investigate and enforce our campaign laws.

The concept of computerizing campaign reports is not at all new. At least 29 other states currently computerize campaign finance reports. These states are as large as New York and Florida and as small as Idaho and Nevada. The common goal lies in providing increased public access to meaningful and consistent data.

Common Cause/Ohio conducted a survey of all states regarding computerization of campaign reports. The reasons other states give for moving to a computerized system are revealing:

"To run office more efficiently, to keep up with increasing workload without using additional staff." (Arizona)

"To increase the level of service to constituency, and the demand for specialized reports." (Idaho)

"Impossible to provide meaningful data without doing so." (New Jersey)

In addition, 16 out of 23 states claim computerization has caused a savings in operational costs and staff time, and in reduced dependence on outside services, temporary help, and overtime.

We have identified four key problems with the data storage system currently employed by Montana's Commissioner of Political Practices, which this bill seeks to remedy:

**\*\*\* VALUABLE STAFF TIME SPENT ON DATA ENTRY.**

The Commissioner's office must inspect 8 - 10,000 pages of reports filed in paper format with that office each fiscal year for compliance with campaign laws. Currently, the only information compiled by the Commissioner in a useful report format is candidate contributions and expenditures. To my knowledge, that data is entered by hand into the Commissioner's computer system.

**\*\*\* INACCESSIBILITY OF INFORMATION.**

Even computerized candidate information is usually unavailable until well after the election because of the time involved in data compilation. Information pertaining to lobbyist and lobbying principal expenditures is not compiled in similar report form. Thus, such information is available to citizens only if they are willing and able to come to the office and search through files of paper forms filled out by those entities.

If all reports were filed on computer software, the information would be readily and conveniently accessible to anyone requesting it. In addition, certain fields of information -- such as overall contributions by a particular economic interest -- could easily be obtained with a few keystrokes and accessible by modem.

**\*\*\* DUPLICATION OF EFFORTS.**

Many of the larger campaigns already complete their reports on computer software, and must turn that data into hard copy for the Commissioner's office. By providing campaign report forms in a fill-in-the-blank computerized software format, campaigns would save time and effort as well as the Commissioner.

**\*\*\* INCONSISTENCY OF INFORMATION.**

Currently, certain requirements (such contributor occupation) is inconsistently or inaccurately supplied. The software prescribed could establish numerical data codes (like the occupational codes used by the Internal Revenue Service) to ensure consistency and save the Commissioner the time, energy, and cost incurred by notifying filers of inaccurate or incomplete forms.

\* \* \* \* \*

Computerization of campaign and lobbying reports is a concept, whose time has come. In the long run, it should save time and money, enable the Commissioner to spend more time on enforcement, and allow for meaningful access to the public information filed with that office. We urge a "DO PASS" on SB 205.

DATE 2-2-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 203, SB 204, SB 205

Name	Representing	Bill No.	Check One	
			Support	Oppose
<i>Art Whelan</i>	<i>Assoc. of Retirees</i>	203 204	X	
<i>Emmett Kelley</i>	<i>Retirees</i>	203 204	X	
<i>Russell Wright</i>	''	203 204	X	
PAUL SMIETANKA	SELF	204	✓	
<i>Thomas Schaefer</i>	<i>MPGA</i>	203	✓	
<i>Jerry Hachtman</i>	SELF	203 204	✓	
<i>Troy W. Miller</i>	Self	203 204	✓	
<i>Ed Argenbright</i>	<i>Comm. of Pol. Practices</i>	205	x	
<i>Daley Hubbert</i>	'' '' ''	205	x	
<i>Terry Teichrow</i>	<i>PERD Board</i>	204	X	
AMY KELEY	<i>Common Cause</i>	205	X	
<i>John Drew Herder</i>	<i>AMRPE</i>	203	X	
''	<i>AMRPE</i>	204	X	
<i>John Galea</i>	<i>M.F.T./M.F.S.F</i>	203	X	
'' ''	'' ''	204	X	
<i>Tony Schreiner</i>	<i>Butte Retired Teachers</i>	203	X	

*Mark Cross* PERD 203 X

**VISITOR REGISTER**

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE \_\_\_\_\_

SENATE COMMITTEE ON State admin.

BILLS BEING HEARD TODAY: \_\_\_\_\_

Name	Representing	Bill No.	Check One Support Oppose	
Don Waldron	MREA	203 204	✓	
Tony Herbert	AGA/ISD	205		
Jeff Brant	DofA/ISD	205		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY