

MINUTES

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

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIRMAN, on February 10, 1993,
at 8:07 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. 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: Rep. Gary Mason

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 479; HB 451; HB 486
Executive Action: HB 328 (tabled); HB 126; HB 249 (tie
vote)

EXECUTIVE ACTION ON HB 328

Motion: REP. BARNHART MOVED HB 328 DO PASS.

Discussion:

REP. RICE stated reducing the legislature to an 80-member House and 40-member Senate was a drastic cut; she suggested the rural areas would find a smaller reduction more acceptable.

REP. STOVALL stated any reduction would hurt rural representation.

REP. SPRING stated a 90-member House would be acceptable to him, but he opposed the bill.

REP. GERVAIS expressed his opposition to the bill.

Vote: HB 328 DO PASS. Motion failed 3 to 13 on a roll call vote with REPS. BARNHART, RICE, and SQUIRES voting yes and REPS. MOLNAR and MASON voting by proxy. EXHIBITS 1, 2

Motion/Vote: REP. SPRING MOVED HB 328 BE TABLED. Motion carried 14 to 2 with REP. RICE and BARNHART voting no and REP. MOLNAR voting by proxy. EXHIBIT 2

EXECUTIVE ACTION ON HB 126

Motion/Vote: REP. SQUIRES MOVED HB 126 DO PASS. Motion passed 10 to 6 with REPS. GERVAIS, ROSE, REHBEIN, HAYNE, GALVIN, and STOVALL voting no and REP. MOLNAR voting by proxy. EXHIBIT 2

EXECUTIVE ACTION ON HB 249

Motion: REP. SPRING MOVED HB 249 DO PASS.

Motion: REP. MOLNAR moved to amend HB 249. EXHIBIT 3

Discussion:

Sheri Heffelfinger explained the amendment addressed retirement contributions and would allow legislators to continue their participation in a public retirement system while serving as legislators. For example, teachers could continue to contribute to the teachers' retirement system with their contribution based on their teaching salaries. She explained legislators could choose to become members of the Public Employees' Retirement System (PERS) and their contributions would be based on their legislative salaries.

REP. SIMPKINS explained the law prohibits public employees from contributing simultaneously to both retirement systems. The amendment clarifies that public employees can continue their participation in a public retirement system.

REP. SQUIRES asked what money public employees would use to pay their retirement contribution. REP. DAVIS answered they would use their legislative salary, but they would pay at their public employment rate.

REP. GALVIN asked whether public employees received both social security and public retirement. REP. DAVIS confirmed public employees receive both.

Vote: HB 249 BE AMENDED. Motion carried unanimously on a roll call vote. EXHIBIT 4

Motion: REP. SPRING MOVED HB 249 DO PASS AS AMENDED.

Motion: REP. DAVIS MADE A SUBSTITUTE MOTION THAT HB 249 BE TABLED.

Discussion:

REP. ROSE asked who would be affected by HB 249. REP. MOLNAR responded to his knowledge the only legislators who currently draw salary from both the legislature and public employment are some teachers.

REP. RICE expressed her concern the bill creates a system in which only retired people would be able to serve as legislators. She said she worked for a private employer who treats her legislative duty like National Guard duty, and she does receive income while she serves as a legislator. REP. RICE maintained legislators should be able to negotiate individually with their employers. She said the bill would limit public employees from serving and expressed the need for the legislature to have balance between publicly and privately employed legislators.

REP. SPRING asserted there was a difference between public and private employees, and the bill was to prevent "double-dipping" by public employees.

REP. GERVAIS expressed his concern the bill singled out certain people.

REP. DAVIS made a point of order. He noted the bill had been discussed thoroughly under the do pass motion, and he had made a nondebatable tabling motion. He asked protocol be followed.

Vote: HB 249 BE TABLED. Motion failed 8 to 8 on a roll call vote with REPS. SIMPKINS, SPRING, HAYNE, MASON, MOLNAR, REHBEIN, STOVALL, and WALLIN voting no. EXHIBIT 5

HEARING ON HB 479Opening Statement by Sponsor:

REP. DON LARSON, House District 65, Seeley Lake, distributed written testimony in which he introduced HB 479. The bill would require state agencies to prepare economic impact statements and identify funding sources for local governing bodies for the implementation of state regulations. He said the bill is an attempt to mitigate the impact of state government on local governments. **EXHIBIT 6**

Proponents' Testimony:

Jack Lynch, Chief Executive, Butte-Silverbow, said he strongly supported HB 479 because he had observed the detrimental effect of state mandates in his involvement in local government. He reviewed recent costs to Butte-Silverbow for infrastructure repairs mandated by state and federal regulations: \$2.5 million in a new landfill; \$28 million for the water system; \$6-10 million for sewer. He noted the federal mandate to control storm water is estimated to cost \$1.4 trillion nationwide. **Mr. Lynch** reported most of the unfunded mandates from the state had occurred after 1986 and the passage of Initiative 105 which froze local government taxes. He asserted local governments could not afford more unfunded mandates. He suggested the state was beginning to depend on user fees. He held user fees were ideally designed for local government to pass on costs for direct services and should not be used to fund federal and state mandates. He urged passage of the bill.

Paul Torok, Manager, Seeley Lake Water District, supported HB 479. He noted water treatment was only a small fraction of state legislation; however, as a result of legislation in the last session, Montanans will pay approximately \$88.5 million more to comply with mandates related to water treatment. He said the Department of Health and Environmental Sciences is requiring the Seeley Lake Water District to filter its water at a cost of \$1.7 million to 380 water users. He maintained legislators should be aware of the economic impact of proposed legislation to determine if it is economically feasible. **Mr. Torok** noted the bill exempted the economic assessment for economic impacts of less than \$50,000 (lines 3-7, page 10). He held small communities would find \$50,000 to be a significant economic impact and suggested the amount be reduced. He said he would also like an amendment which would require legislators be informed when a mandate is not economically feasible. **EXHIBIT 7**

Ed Eaton, owner, mobile home park, Helena, said he supported the bill because state and federal mandates for small water systems will result in failure of the parks. He related because of the cost of testing wells in his own small mobile home park, he had become the owner of a nonprofit business, much to his dismay.

Jim Johnston, Director, Department of Public Works, Butte-Silverbow, said their problem was trying to comply with both state and federal regulations. He said the department must conduct different water testing procedures for each governing entity; he reported the state fined them \$17,000 because the tests they had conducted were in accordance with federal rather than state regulations. He supported HB 479 with the expectation it could lead to continuity in rules and regulations and identify some form of funding. **EXHIBIT 8**

Alec Hansen, Montana League of Cities and Towns, supported HB 479 because he thought good decisions were dependent on good information, and the intent of the bill was to provide good information.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. SCHWINDEN asked REP. LARSON whether there would be a problem with reducing the \$50,000 amount as suggested by Mr. Torok. REP. LARSON said he thought the change was probably appropriate because the economic viability of small systems would be most adversely affected by the cost of regulations.

REP. SCHWINDEN asked REP. LARSON if he had a different amount to recommend. REP. LARSON said he would have to confer with state agencies and local operators. Mr. Johnston recommended a reduction to \$10,000.

REP. RICE asked REP. LARSON whether the change to current law through HB 479 is to mandate economic assessments. REP. LARSON agreed.

REP. WALLIN described the differences between state and federal requirements on underground storage tanks and asked REP. LARSON whether the bill could be changed to consider the economic impact on individuals rather than governmental agencies. REP. LARSON responded his first version of the bill was to prohibit state regulations stricter than federal mandates. He said that version conflicted with the Montana Constitution which requires protection of the environment.

Closing by Sponsor:

REP. LARSON reported a study conducted last year by a university professor showed only Montana's 12 Class I cities had the bonding capacity to develop infrastructure projects. The study showed even the endowment program would not be sufficient to fund the projects. REP. LARSON said under Initiative 105 the communities cannot afford the programs, and he asserted the legislature must require state government to assess their impact on local

governments. He pointed out the Department of Health and Environmental Sciences had requested 57 new FTEs who would be in the regulating arena. He noted the department claimed these positions would be paid by federal monies, but he maintained the impact of regulations would be borne by local governments.

HEARING ON HB 451

Opening Statement by Sponsor:

REP. DAN HARRINGTON, House District 68, Butte, introduced HB 451 which would require negotiations related to public employee collective bargaining commence at least one year prior to submission of the budget by the governor to the legislature. He said the intent of the bill was to have agreements ready for consideration when the legislature goes into session.

Proponents' Testimony:

Michael Dahlem, Staff director, Montana Federation of State Employees (MFSE), Montana Federation of Teachers, Montana AFL-CIO, provided written testimony in support of HB 451 in which he expressed the need for ample time for meaningful collective bargaining negotiations. He also provided the most recent collective bargaining proposals from the state of Montana and MFSE. EXHIBIT 9

Tom Schneider, Montana Public Employees Association, stated the Association's support for HB 451. He contended the legislature was not the proper forum for negotiating public employees' wages.

Melissa Case, Hotel Employees-Restaurant Employees' Union, expressed their strong support for HB 451.

Opponents' Testimony:

Steve Johnson, Chief, State Labor Relations Bureau, Chief Labor Negotiator, provided written testimony in opposition to HB 451. He asserted the bill would detract from the collective bargaining process. He reported some collective bargaining agreements already contain provisions regarding when negotiations commence; HB 451 would impose a date. He also suggested some smaller unions are content to have the larger unions conduct economic negotiations; HB 451 would require these unions to negotiate one year prior to submission of the budget. EXHIBIT 10

Mr. Johnson also presented correspondence sent last summer to the major unions which offered to begin economic negotiations. He reported some unions expressed a desire to delay meetings until the fall; one union did not respond. He asked the committee to "do not pass" HB 451. EXHIBIT 11

Sue Hill, Montana University System, stated the system's opposition to HB 451 and provided written testimony. She asserted the major obstacles to meaningful salary negotiations are political in nature and derive from the fact that while negotiations take place between representatives of the governor and the Board of Regents, it is the Montana legislature which has the sole authority to appropriate funds for salary increases. She said no matter how early negotiations began, the negotiations would be complicated by the separation of powers issues. She contended HB 451 would result in prolonged negotiations which were more likely to become contentious. Ms. Hill stated the Montana University System urged the committee to vote against HB 451. EXHIBIT 12

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. GALVIN asked Mr. Johnson to define a reasonable period of time for negotiations and further inquired whether the lame duck status of the governor had a bearing on negotiations. Mr. Johnson suggested four to five months was a sufficient period of time. He said he thought the governor's lame duck status was a reasonable consideration by labor unions. He suggested they would realize a change in administration could result in a change of position. REP. GALVIN asked Mr. Johnson if the lack of response by unions last summer could be explained by their consideration of the governor's status. Mr. Johnson agreed.

REP. SPRING asked REP. HARRINGTON whether HB 451 would help when unions were negotiating with a lame duck governor. REP. HARRINGTON said even a lame duck governor is required to make an offer to the unions by November 15 and submit a budget to the legislature. REP. SPRING asked REP. HARRINGTON why unions were reluctant to begin negotiations. REP. HARRINGTON responded the state has not offered anything so there is nothing to negotiate.

REP. WALLIN asked REP. HARRINGTON whether the bill would make legislative candidates act as negotiators. REP. HARRINGTON disagreed; he said his intent was to keep negotiations out of the legislature.

Closing by Sponsor:

REP. HARRINGTON said the bill was important because it set a time for commencing meaningful negotiations. He pointed out issues other than salary were negotiated.

The committee recessed briefly while fourth grade students from Ray Bjork School handed out juice, muffins, and the "Montana Children's Agenda 1993". EXHIBIT 13

HEARING ON HB 486Opening Statement by Sponsor:

REP. BRUCE SIMON, House District 91, Billings, introduced HB 486 which would prohibit the unauthorized alteration and distribution of official sample ballots and to regulate the distribution of simulated ballots which favor a particular candidate or issue. He said if sample ballots are distributed, they should not be altered to favor a particular candidate. If they are altered, then he asserted a disclaimer should be present to identify the altered sample ballots as campaign materials in order to avoid deceiving the public.

Proponents' Testimony:

Verner Bertelsen, former Secretary of State, supported HB 486 expressing his respect for the integrity of campaign materials. He concurred with REP. SIMON'S concern about changes in sample ballots.

Opponents' Testimony: None.

Informational Testimony:

Joe Kerwin, Election Bureau Chief, Secretary of State, said he had two concerns about the bill. First, he asked if a penalty had been provided for violations of the bill. Secondly, he noted the bill amended chapter 12 and suggested the bill would more appropriately be placed in chapter 35 which deals with campaign practices.

Questions From Committee Members and Responses:

REP. DAVIS asked REP. SIMON if there was a penalty clause in the bill. REP. SIMON acknowledged there was no penalty clause in the bill; he said he assumed violations would result in a civil penalty. He said he had no objection to the committee adding a penalty clause.

REP. MOLNAR asked REP. SIMON to define the official sample ballot. REP. SIMON said a ballot which followed the format provided by the elections office would be the official sample ballot. REP. MOLNAR reported sample ballots he had seen always included negative literature. He asked whether the bill could be amended to prohibit the distribution of sample ballots with other campaign literature. REP. SIMON responded that such an amendment would go beyond the scope of the bill. He reiterated his intent was to avoid any deception of the public through the distribution of altered ballots.

REP. WALLIN referred REP. SIMON to lines 13-14, page 2, and suggested the language be changed. REP. SIMON responded he was

willing to have the committee change the language of the bill so long as the bill's concept was maintained.

REP. BARNHART asked REP. SIMON whether he would object to having the bill amend chapter 35 on political practices rather than chapter 12. REP. SIMON explained the University of Montana law school had drafted the bill for him and had chosen the section to amend. He said he had no objection to changing the location of the bill.

REP. SQUIRES asked REP. SIMON to define a simulated ballot. REP. SIMON said the bill differentiated between an official sample ballot and a simulated ballot which would be similar to the official ballot except for a disclaimer which identified it as a campaign piece. REP. SQUIRES asked whether simulated ballots would include ballots with "get out to vote" and candidate choice checkmarks. REP. SIMON said the bill would not preclude candidates from distributing a list of candidates with checkmarks so long as a disclaimer was included to identify it as campaign material and not a sample ballot. REP. SQUIRES asked REP. SIMON whether a sample ballot or simulated ballot had been distributed during his campaign. REP. SIMON explained his opponent had reproduced the official sample ballot in every detail except the opponent's name was larger and had been premarked. He contended the ballot was deceiving in that it gave the impression it was an official sample ballot. He said REP. VOGEL had experienced the same situation two years ago and lost his election by ten votes.

REP. SIMPKINS suggested to REP. SIMON a voter would be unable to take a simulated sample ballot with a disclaimer into the voting booth. REP. SIMON said there was no clear prohibition on what materials voters could take into the voting booth; and, in any case, enforcement of any prohibition would be virtually impossible.

REP. SQUIRES asked REP. SIMON if he had taken the objectionable campaign piece to the Commissioner of Political Practice. REP. SIMON said he had contacted both the Commissioner of Political Practices and the Secretary of State. Their initial reaction was to say they thought the altered sample ballot was illegal, but they were not sure. After checking the statutes, they concluded there was no prohibition and the practice was not illegal. REP. SIMON said he had learned REP. VOGEL had pursued his similar situation with a complaint to the Commissioner of Political Practices and his complaint had been rejected for having no basis in law. REP. SQUIRES asked if the simulated sample ballot had included a disclaimer. REP. SIMON confirmed a disclaimer had been attached, but the disclaimer instructed the voter to tear off the disclaimer and take the remainder of the ballot into the voting booth. He explained the deception is that the remainder looked like a sample ballot, but actually his opponent's name was larger, bolder, and premarked.

REP. BARNHART asked REP. SIMON whether under HB 486 she could distribute copies of the official sample ballot on which her name was listed above her opponent's. REP. SIMON said he thought she could legally distribute copies of the official sample ballot under the bill. REP. SIMPKINS asked whether the copy would require a disclaimer. REP. SIMON said copies with no other alterations would not require a disclaimer. REP. SIMPKINS asked whether reducing the size of the ballot would require a disclaimer. REP. SIMON said he had not envisioned a change in size requiring a disclaimer, so long as the content remained identical to the official ballot.

Closing by Sponsor:

REP. SIMON said the committee may need to change some of the language in the bill, but he was confident members understood his intent. He urged the committee to pass the bill.

ADJOURNMENT

Adjournment: 10:35 a.m.


DICK SIMPKINS, Chair


DOROTHY POULSEN, Secretary


DS/DP

HOUSE STANDING COMMITTEE REPORT

February 10, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 126 (first reading copy -- white) do pass.

Signed: 
Dick Simpkins, Chair

Committee Vote:
Yes , No .

331111SC.Hss

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/10/93 BILL NO. HB 328 NUMBER _____

MOTION: No Pass HB 328

NAME	AYE	NO
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		✓
TOTAL	3	13

EXHIBIT 1
DATE 2/10/93
HB 328

I, Brad Moran, give
my prayer in St. Edmund's
Dish Cemetery

2-10-92

EXHIBIT 2
DATE 2/10/93
HB 328, HB126

Amendments to House Bill No. 249
First Reading Copy

Requested by Rep. Brad Molnar
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
February 9, 1993

1. Page 3, line 21.

Strike: "retirement contribution,"

2. Page 3, line 25.

Following: "service."

Insert: "Nothing in this subsection (8) affects a legislator's
right to continued participation in a public retirement
system under the provisions of 5-2-304."

3. Page 5, line 7.

Strike: "retirement contribution,"

4. Page 5, line 11.

Following: "service."

Insert: "Nothing in this subsection (2) affects a legislator's
right to continued participation in a public retirement
system under the provisions of 5-2-304."

EXHIBIT 3
DATE 2/10/93
HB 249

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/10/93 BILL NO. HB 249 NUMBER _____

MOTION: Move to amend HB 249

NAME	AYE	NO
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	✓	
TOTAL	16	0

EXHIBIT 4
DATE 2/10/93
HB 249

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/10/93 BILL NO. HB 249 NUMBER _____

MOTION: To table HB 249

NAME	AYE	NO
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		✓
TOTAL	8	8

EXHIBIT 5
DATE 2/10/93
HB 249



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DON LARSON

HOUSE DISTRICT 65

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CAPITOL STATION

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COMMITTEES:

BUSINESS AND INDUSTRY

HIGHWAYS AND TRANSPORTATION

AGRICULTURE, LIVESTOCK AND IRRIGATION

TESTIMONY

HOUSE BILL 479

Members of the Committee: For the record, my name is Don Larson, House District 65, Seeley Lake.

House Bill 479 is a further attempt to mitigate the impact of state government on local governments. Members, just as we get miffed when the federal government mandates to us at the state level, local government officials get miffed -- to put it mildly -- at us when we mandate rules and regulations to them.

House Bill 479 merely requires state agencies to do something they are suppose to have been doing all along. House Bill 479 requires that state agencies prepare impact statements to identify the cost of implementing state mandates and a potential funding source for the new, mandated program.

Mandate relief legislation is not new. Senator Glenn Drake, several years ago, won passage of Section 1-2-112, MCA, which is in your packets. It is commonly referred to as the Drake Amendment. It is not enforced and is a joke. The Administrative Procedure Act 2-4-405 also requires, at the request of the Administrative Code Committee, that a state agency prepare an economic impact statement

EXHIBIT 6
DATE 2/10/93
HB 479

identifying the cost of a rule or regulation. To the knowledge of the Legislative Council, that rule has not been used since 1986.

The 102nd Congress had more than 20 pieces of mandate relief legislation before it, and many of them will be carried forward to the 103rd Congress.

These pieces include: improving cost estimates of legislation, requiring estimates for legislation, forming commissions to study and possibly eliminate certain mandates, and reimbursing the states for the cost of the mandates under certain conditions.

This bill started as a bill to prohibit the state from drawing rules stricter than federal standards. That draft proposal potentially banged up against the constitutional requirement to protect Montana's environment, so it has undergone several drafts.

Some examples of costs shifted to the local governments: psychological exams, juvenile detention, mental health programs, solid waste management, welfare services, the county assessor's salary, filing fees and environmental protection regulations.

Rep. Bob Gilbert's HB 317, which just passed the House, establishes negotiated rule-making. This is a process whereby state agencies MAY include the affected entities in the drafting of the rules and regulations. This is timid progress!

HB 479 mandates what the Administrative Procedures Act (2-4-405) has directed for years. This section of the ARM says the

Administrative Code Committee may request a state agency to prepare an impact statement identifying the economic impact of the adoption, implementation or repeal of a rule. They have not used it.

We never question if we have gone too far with our state-mandated programs. We simply assume we are the conduit to pass through federal mandates. We assume partial control over the environmental questions and pass part of it to the local districts. We assume partial control over the educational arena, and we pass part of it to the local arena. Why not just let the local arenas decide if they can afford it or not.

What are the costs of clean air and clean water? We all agree we would like to have clean air and water? But, we have not agreed who should pay for it. The FEDS? The State? The local government body? All Montanans? Or just those who own property or only those who file an income tax return? Or will it be those who use the service? There is no agreement. There is no discussion of this topic.

This bill will reinitiate the discussion by starting to identify the costs.

We cannot keep passing the buck to the local governing bodies without passing the bucks to pay for them.

DON LARSON
Representative, HD 65

GOVERNMENT STRUCTURE AND ADMINISTRATION

2-4-404

History: En. 82-4203.5 by Sec. 4, Ch. 410, L. 1975; amd. Sec. 7, Ch. 285, L. 1977; amd. Sec. 1, Ch. 561, L. 1977; R.C.M. 1947, 82-4203.5(1)(d), (1)(e).

Cross-References

Publication of poll results, 2-4-306.

2-4-404. Evidentiary value of legislative poll. In the event that the administrative code committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll shall be admissible in any court proceeding involving the validity of the rule. In the event that the poll determines that a majority of the members of both houses find the proposed rule is contrary to the intent of the legislature, the rule shall be conclusively presumed to be contrary to the legislative intent in any court proceeding involving its validity.

History: En. Sec. 2, Ch. 561, L. 1977; R.C.M. 1947, 82-4205(3).

Cross-References

Poll results to be published with rule,

2-4-306.

2-4-405. Economic impact statement. (1) Upon written request of the administrative code committee based upon the affirmative request of at least five members of the committee at an open meeting, an agency shall prepare a statement of the economic impact of the adoption, amendment, or repeal of a rule as proposed. As an alternative, the administrative code committee may, by contract, prepare such an estimate. Except to the extent that the request expressly waives any one or more of the following, the requested statement must include and the statement prepared by the committee may include:

- a description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule;
- a description of the probable economic impact of the proposed rule upon affected classes of persons and quantifying, to the extent practicable, that impact;
- the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
- an analysis comparing the costs and benefits of the proposed rule to the costs and benefits of inaction;
- an analysis that determines whether there are less costly or less intrusive methods for achieving the purpose of the proposed rule;
- an analysis of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;
- a determination as to whether the proposed rule represents an efficient allocation of public and private resources; and
- a quantification or description of the data upon which subsection (1)(a) through (1)(g) are based and an explanation of how the data gathered.

(2) A request to an agency for a statement or a decision to contract for a statement must be made by the committee prior to the

agency action on the rule. The statement must be filed with the administrative code committee within 3 months of the committee's request or decision. The committee may withdraw its request or decision for an economic impact statement at any time.

(3) Upon receipt of an impact statement, the committee shall determine the sufficiency of the statement. If the committee determines that the statement is insufficient, the committee may return it to the agency or other person who prepared the statement and request that corrections or amendments be made. If the committee determines that the statement is sufficient, a notice indicating where a copy of the statement may be obtained must be filed with the secretary of state for publication in the register by the agency preparing the statement or by the committee, if the statement is prepared under contract by the committee, and must be mailed to persons who have registered advance notice of the agency's rulemaking proceedings.

(4) This section does not apply to rulemaking pursuant to 2-4-303.

(5) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section.

(6) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the factors listed in this section satisfies the provisions of this section.

History: En. Sec. 1, Ch. 480, L. 1978; amd. Sec. 1, Ch. 665, L. 1983; (6) En. Sec. 2, Ch. L. 1983.

Cross-References

Notice and hearing on rules, 2-4-302.

Publication, 2-4-306.

2-4-406. Committee objection to violation of authority for rule — (1) If the administrative code committee objects to all or some portion of a proposed or adopted rule because the committee considers it not to have been proposed or adopted in substantial compliance with 2-4-302, 2-4-303, 2-4-305, the committee shall send a written objection to the agency which promulgated the rule. The objection must contain a concise statement of the committee's reasons for its action.

(2) Within 14 days after the mailing of a committee objection to a rule, the agency promulgating the rule shall respond in writing to the committee. Upon receipt of the response, the committee may withdraw or modify its objection.

(3) If the committee fails to withdraw or substantially modify its objection to a rule, it may vote to send the objection to the secretary of state, who shall, upon receipt thereof, publish the objection in the Montana Administrative Register adjacent to any notice of adoption of the rule and in the ARM adjacent to the rule, provided an agency response must also be published if requested by the agency. Costs of publication of the objection and the agency response shall be borne by the committee.

(4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the agency bears the burden, in any action challenging the validity of the rule or portion of a rule objected to by the committee, of proving the rule or portion of the rule objected to was adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305. If a rule is invalidated by court

2-4-405 has not been used since 1986

Cross-References

Prohibition of ex post facto laws and laws impairing contracts, Art. II, sec. 31, Mont. Const.

Certain retrospective laws prohibited, Art. XIII, sec. 1, Mont. Const.

1-2-110. All statutes subject to repeal. Any statute may be repealed at any time except when it is otherwise provided therein. Persons acting under any statute are deemed to have acted in contemplation of this power of repeal.
History: En. Sec. 294, Pol. C. 1895; re-en. Sec. 121, Rev. C. 1907; re-en. Sec. 95, R.C.M. 1921; Cal. Pol. C. Sec. 326; re-en. Sec. 95, R.C.M. 1935; R.C.M. 1947, 43-512.

1-2-111. Effect of code on special, local, and private statutes. Nothing in this code affects any of the provisions of any special, local, or private statutes; but such statutes are recognized as continuing in force notwithstanding the provisions of this code, except so far as they have been repealed or affected by subsequent laws.

History: En. Sec. 18, Pol. C. 1895; re-en. Sec. 18, Rev. C. 1907; re-en. Sec. 18, R.C.M. 1921; Cal. Pol. C. Sec. 19; re-en. Sec. 18, R.C.M. 1935; R.C.M. 1947, 12-209.

Cross-References

Local and special legislation, Art. V, sec. 12, Mont. Const.

Local government ordinances, resolutions, and initiatives and referendum, Title 7, ch. 5, part 1.

1-2-112. Statutes imposing new local government duties. (1) Any law enacted by the legislature after July 1, 1979, which requires a local government unit to perform an activity or provide a service or facility which will require the direct expenditure of additional funds must provide a specific means to finance the activity, service, or facility other than the existing authorized mill levies or the all-purpose mill levy. Any law that fails to provide a specific means to finance any service or facility other than the existing authorized mill levies or the all-purpose mill levy is not effective until specific means of financing are provided by the legislature.

(2) The legislature may fulfill the requirements of this section by providing for an increase in the existing authorized mill levies or the all-purpose mill levy, special mill levies, or remission of money by the state of Montana to local governments; however, an increase in the existing authorized mill levies or the all-purpose mill levy or any special mill levy must provide an amount necessary to finance the additional costs and if financing is provided by remission of funds by the state of Montana, the remission shall bear a reasonable relationship to the actual cost of performing the activity or providing the service or facility.

(3) No subsequent legislation shall be considered to supersede or modify any provision of this section, whether by implication or otherwise, except to the extent that such legislation shall do so expressly.

(4) This section shall not apply to any law under which the required expenditure of additional local funds is incidental to the main purpose of the law.

History: En. 43-517, 43-518 by Secs. 1, 2, Ch. 275, L. 1974; R.C.M. 1947, 43-517, 43-518; amd. Sec. 1, Ch. 217, L. 1979.

Cross-References

Local government taxes and finances generally, Title 7, ch. 6.

1-2-113. Statutes imposing new duties on a school district to provide means of financing. (1) Any law enacted by the legislature after 1981, except any law implementing a federal law or a court decision requires a school district to perform an activity or provide a service or facility and that will require the direct expenditure of additional funds shall provide a specific means to finance the activity, service, or facility other than an existing property tax mill levy. Any law that fails to provide a specific means to finance such a service or facility is not effective until a specific means of financing meeting the requirements of subsection (2) is provided by the legislature.

(2) Financing must be by means of a remission of money by the state for the purpose of funding the activity, service, or facility. Financing must be a reasonable relationship to the actual cost of performing the activity providing the service or facility.

(3) No legislation passed and approved after October 1, 1981, supercedes or modifies any provision of this section, except to the extent that legislation expressly does so.

(4) This section does not apply to any law under which the required expenditure of additional funds by the board of trustees is an insubstantial amount that can be readily absorbed into the budget of an existing project. History: En. Sec. 1, Ch. 596, L. 1981.

Cross-References

Rules with substantial financial impact on school districts, 20-2-115.

School finances generally, Title 20, ch. 9.

Part 2**Effect of Legislature's Actions****Part Cross-References**

Effect of MCA, 1-11-103.

1-2-201. Statutes — effective date. (1) (a) Except as provided in section (1)(b) or (1)(c), every statute adopted after January 1, 1981, takes effect on the first day of October following its passage and approval unless a different time is prescribed therein.

(b) Every statute providing for appropriation by the legislature for funds for a public purpose takes effect on the first day of July following passage and approval unless a different time is prescribed therein.

(c) Every statute providing for taxation or the imposition of a fee on vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed therein.

SEELEY LAKE - MISSOULA COUNTY WATER DISTRICT

POST OFFICE BOX 503

TELEPHONE # (406) 677-2559

SEELEY LAKE, MONTANA 59868

FAX # (406) 677-2898

February 10, 1993

MONTANA STATE HOUSE OF REPRESENTATIVES
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

My name is Paul Torok. I am the manager of the Seeley Lake Water District in Seeley Lake, Montana. I am here to speak on behalf of LC 0541, proposed by Representative Don Larson.

This bill will require State agencies to assess the economic impact on the citizens of this State and inform the Legislators of the financial impact before legislation is adopted.

The Water Industry represents only a small fraction of State legislation. Surface Water Treatment represents an even smaller fraction of the legislation affecting the Water Industry. However, as a result of legislation passed in the last session, Montanans will pay approximately \$88,500,000.00 more to comply with State mandates relating to Surface Water Treatment.

As an example, the Department of Health and Environmental Sciences (DHES) is requiring the Seeley Lake Water District to filter, in order to comply with State rules that are more stringent than EPA regulations. The filtration project will cost our 380 customers approximately \$1,700,000.00 over the next twenty years, which will double the monthly water bills for our users.

DHES staff indicate there are approximately 30 other systems across the State that will encounter a similar problem. Using the estimate for the Seeley Lake Water District this equates to \$53,100,000.00.

-over-

EXHIBIT 7
DATE 2/10/93
HS 479

There are an additional 40 systems that will encounter some problems meeting State criteria. If the cost to these systems is only half of what it is to Seeley Lake, that equates to \$35,400,000.00. This brings the total cost of the State's Surface Water Treatment regulations to \$88,500,000.00. Were the Legislators in the last session informed by the DHES of the economic impact to Montanans before passing this legislation?

I am not suggesting that legislation that is expensive to the citizens of this State be ignored. I do believe, however, it is critical that the Legislators be made aware of the economic impact of any proposed legislation placing a financial burden on fellow Montanans.

This bill promotes sound business practice. It will enable the agency proposing the legislation to determine if that legislation is economically feasible. The bill will also help Legislators determine at what point the economic impact exceeds feasibility for the people of Montana.

Putting it in Water Industry terms, this bill will act just like a filter. It takes everything that comes in and eliminates the waste.

#

METRO WASTEWATER TREATMENT PLANT
800 CENTENNIAL AVE., BUTTE MT 59701

BILL PASCO PLANT SUPT

TELEPHONE (406) 723-8262 ext 351
FAX # (406) 782-6637
EPA FACILITY # MT 0022012

FEBRUARY 8, 1993

TO: JIM JOHNSTON
FROM: BILL PASCO
RE: MONTANA STATE WQB AND US EPA FEES

SOLID WASTE MANAGEMENT FEE FOR INJECTION SITE

LICENSE	COST/TON	TONS		ANNUAL
FEE	\$0.31	710	\$220.10	FEE
\$2,500.00			\$2,500.00	PAID IN 1992
			\$2,720.10	TOTAL

EPA CLEAN WATER ACT PROPOSED FEES

M.G.D.	COST/MGD		ANNUAL
DESIGN CAPACITY			
8.5	\$2,500.00	\$21,250.00	TOTAL

MT. WQB HB 388 PROPOSED FEES

CURRENT	COST/MGD		ANNUAL
PLANT FLOW	DISCHARGED		
5.0	\$2,500.00	\$12,500.00	TOTAL

TOTAL OF ALL FEES CURRENT AND PROPOSED

	GROSS
	ANNUAL
\$36,470.10	TOTAL

EXHIBIT 8
DATE 2/10/93
HB 479

City and County of Butte - Silver Bow
Department of Public Works
Water Utilities Division

February 8, 1993

State Mandated Fees

ARM 16.20.240 SERVICE CONNECTION FEE

Effective Date: March 1, 1992

Fee Paid in 1992:

The annual fee per active service connection is
\$2.25 for fiscal years 1992 and 1993.

Active Service Connections
During Fiscal Year 1992: 11,943

1992 Fee Paid: 11,943 * \$2.25 = \$ 26,871.75
=====

Estimated Fee To Be Paid In 1993:

1993 Estimated Fee: 12,062 * \$2.25 = \$ 27,139.50
=====

Estimated Fee To Be Paid In 1994:

Beginning fiscal year 1994, the annual fee per active
service connection is \$2.00.

1994 Estimated Fee: 12,183 * \$2.00 = \$ 24,366.00
=====



Office of Budget Administration

Butte-Silver Bow Courthouse

Butte, Montana 59701

406/723-8262

EXHIBIT 8
DATE 2/10/93
HB 479

Jimmy Johnson

From: Gary Rowe

Date: 2/9/93

Re: state mandated costs

Without being too specific, here are the existing and proposed areas that come to my mind concerning the state passing costs to local governments:

- 1.) Deassumption of welfare, including social costs if all entitlement programs end up being eliminated.
- 2.) Costs of administering the state's licensing of motor vehicles and distribution of fees collected.
- 3.) Even though the programs and activities of county District Court Funds exist to adjudicate the State of Montana's criminal and civil codes, the costs are borne primarily by counties.
- 4.) In the area of environmental standards or remediation, the state establishes standards which mitigates their responsibility with little concern for the costs ultimately borne by local users or taxpayers. In fact, costs which the state incurs in satisfying their responsibilities as a result are passed back to the cities and counties.
- 5.) Costs of collecting the state's property Taxes
- 6.) State does not reimburse completely for use of our computers.
- 7.) County Assessor's Salary and chief deputy. We have to pay portion even though it's a state function

TESTIMONY IN SUPPORT OF HB 451

Mr. Chairman and members of the committee, my name is Michael Dahlem and I am staff director for the Montana Federation of State Employees, MFT, AFT, AFL-CIO. I appear today in support of HB 451.

As you may know, my union is currently engaged in collective bargaining negotiations with the State of Montana. Unfortunately, we have thus far been unable to reach a tentative agreement on the state employee pay plan. In fact, we have not reached a pre-legislative agreement with the State since 1981.

We support HB 451 because we believe that ample time needs to be provided for meaningful collective bargaining negotiations. Without sufficient time to negotiate, the bargaining process inevitably falls into the lap of the legislature.

This bill will not guarantee a pre-legislative agreement. It certainly does not require either side to make any concession. However, we believe that it will enhance our chances for an agreement. That will save you time and effort and it will greatly benefit Montana's public employees. For these reasons, I would ask that you give this bill your support.

For your information, I have attached with this testimony, a copy of the most recent pay plan proposals from the State of Montana and the Montana Federation of State Employees.

Michael Dahlem
Dr. Michael Dahlem, Esq.
Staff Director
Montana Federation of State
Employees, MFT, AFT, AFL-CIO

EXHIBIT 9
DATE 2/10/93
HB 451

MONTANA FEDERATION OF STATE EMPLOYEES,
MFT, AFT, AFL-CIO
JOINT PRE-BUDGET PROPOSAL
FEBRUARY 9, 1993

1) Salary: Increase entry and market level by 3% on each July 1. Preserve each employee's market ratio as of June 30, 1993. Grant each institutional teacher a step increase on each July 1. These increases will be funded through vacancy savings.

2) Insurance: Increase the state's contribution for health insurance by \$20 per month each July 1. Retain any unspent contributions in the group health insurance pool.

3) Longevity: Amend Section 2-18-304, MCA to provide all state employees with a 25 cents per hour increase for each three years of uninterrupted state service.

4) Hazardous duty pay: The Employer will pay employees who receive a level 3 working conditions rating on their job classification a 50 cents per hour hazardous duty differential.

5) Shift differential: The Employer will pay employees a 25 cents per hour shift differential for each regularly scheduled hour worked outside of 7 a.m. to 6 p.m. on weekdays and for all regularly scheduled hours worked on weekends.

6) Strike language in Section 2-18-303, MCA requiring the ratification of a completely integrated collective bargaining agreement before unit members can receive legislatively approved pay raises.

7) Insert language requiring pre-budget negotiations to begin one year prior to the submission of the executive budget.

STATE'S ECONOMIC PROPOSALS

(Presented 11/10/92)

The state proposes that all salaries be frozen at the June 30, 1993 level for both years of the coming biennium.
(FY 94-95)

The state contribution to employee health insurance shall remain at \$190 per month over the 94-95 biennium.

The state proposes individual unit contract changes where necessary to provide for overtime compensation only after a 40 hour work week. (No overtime after 8 hours)

The state proposes modification of language in all contracts where necessary to assure that, holiday, annual leave compensatory leave and sick leave are not used to compute hours worked for purposes of overtime.

The state proposes that no other economic impact items be considered for the upcoming biennium within these economic negotiations or in any individual unit contract negotiations.

TESTIMONY OF STEVE JOHNSON
IN OPPOSITION TO HB 451

Mr. Chairman, members of the committee, my name is Steve Johnson. I am currently the chief of the state labor relations bureau. I also serve as the chief labor negotiator for the executive branch of state government in collective bargaining. I appear before you today in opposition to HB 451.

HB 451 would require that negotiations begin at least one year prior to the submission of the executive budget. While I am sure that the sponsor has good intentions, I think the bill, if enacted, would actually detract from the collective bargaining process.

Montana's collective bargaining law for public employees, which this bill would amend, requires the parties to "meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment." This is a mutual obligation. It does not specifically target either the employer or the labor organization.

As I have mentioned, the law requires the parties to "meet at reasonable times." What does this mean? There are no easy answers to this question. The board of personnel appeals, which is the neutral body charged with administering the collective bargaining act, must look at the issue on a case-by-case basis. In general, however, if either of the parties believes that the other party has not lived up to its obligations, there are already legal remedies available through the board of personnel appeals to resolve the issue.

Sometimes, however, the parties choose to include language in the collective bargaining agreement regarding the commencement of negotiations. After all, such issues as when bargaining should begin, frequency of meetings, and duration of meetings, are mandatory subjects of bargaining under the law.

For example, the MPEA master agreement, which covers more executive branch state employees than any other contract, contains a provision regarding when negotiations will commence. Like most state contracts, the MPEA agreement does not identify a specific date for negotiations to begin. HB 451 would impose a date even though the parties have expressly chosen not to do so in the collective bargaining agreement. Moreover, if MPEA believes that the state has not lived up to its contractual obligations, it also has remedies available to it under the contractual grievance and arbitration procedure.

EXHIBIT 10
DATE 2/10/93
451

There are some other practical aspects of collective bargaining in the executive branch that you may wish to consider. Bargaining over economic items usually begins in late summer or early fall in the year prior to the legislative session. Those negotiations usually involve the state and the four largest state employee unions:

- (1) Montana Public Employees Association (3000 employees)
- (2) Montana Federation of State Employees (1500 employees)
- (3) American Federation of State, County and Municipal Employees (850 employees); and
- (4) Public Employees Craft Council (300 employees).

Together, these four unions represent about 93% of all organized executive branch state employees.

Besides the four major state employee unions, however, 15-16 other labor organizations also represent state employees. These smaller state employee unions are usually content to leave economic negotiations to the major unions, and to start negotiating over other contract items in the spring, either during or after the session. HB 451 would require these unions to begin negotiating with the state one year prior to the submission of the executive budget, whether they want to or not.

Finally, I should point out that the labor relations bureau contacted the major unions last summer and offered to meet to begin economic negotiations (correspondence attached). Three of the four unions expressed a desire to meet in the fall. One union chose not to respond to two separate letters.

This leads me to believe that the usual time frames for conducting negotiations are sufficient. If there is a problem with these time frames, the best place to resolve it is at the bargaining table. I believe that a "do not pass" vote on HB 451 is a vote in favor of the collective bargaining process.

Thank you for your consideration.

ARTICLE 22
PAYROLL DEDUCTIONS

Section 1. In addition to the monthly dues deductions authorized in Article 3 of this Agreement, bargaining unit members shall be allowed to authorize Management to deduct from their pay checks such amounts that they desire in order to participate in programs that have the prior approval of both Management and the Association.

ARTICLE 23
TERM OF AGREEMENT

Section 1. This Agreement shall be effective as of the 1st day of July, 1991, and shall remain in full force and effect through the 30th day of June, 1993. If one of the parties desires to modify this Agreement, it shall give the other written notice of its intent to do so. In such case, the parties agree to give written notice not sooner than 120 and no less than 90 days prior to the expiration date, and agree to meet no later than 90 days prior to the expiration date in order to renegotiate this Agreement. It is also agreed that the Employer and the Association will meet to reopen negotiations in sufficient time to permit adequate negotiations on economic matters. The Association shall have the right to engage in concerted activity after December 31, 1992, for matters pertaining to wages and economic benefits in the 94-95 biennium.

ARTICLE 24
NO STRIKE/NO LOCKOUT

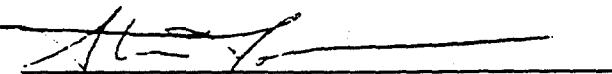
Section 1. During the term of this Agreement, neither the Association nor its agents or representatives will cause, sanction or take part in any strike or any other interference with the operation of the Employer's business, except as provided in Article 23.

Section 2. During the term of this Agreement, there shall be no lockouts by the Employer.

THIS AGREEMENT is signed and dated this 27th day of August, 1991.

FOR: STATE OF MONTANA

FOR: MONTANA PUBLIC EMPLOYEES
ASSOCIATION


Steve Johnson, Chief
Labor Relations Bureau


Thomas E. Schneider
Executive Director


Crystal A. Murphy
Secretary/Treasurer

EXHIBIT 11
DATE 2/10/93
HB 451

DEPARTMENT OF ADMINISTRATION
STATE PERSONNEL DIVISION



STAN STEPHENS, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620

July 20, 1992

Jim Adams, Associate Director
Montana Public Employees Association
P.O. Box 5600
Helena, MT 59604

Dear Jim:

This is to express the state's willingness to meet with you to receive and discuss your organization's pay proposal for the upcoming biennium. Even though we will not be ready to present our own proposal until late summer or early fall, I believe that we could benefit from hearing your ideas and concerns now.

Please contact me at your earliest convenience to arrange a mutually satisfactory meeting date.

Sincerely,

A handwritten signature, likely of Steve Johnson, is written over a horizontal line.

Steve Johnson, Chief
Labor Relations Bureau

SJ/yv

EXHIBIT 11
DATE 2/10/93
#B 451

DEPARTMENT OF ADMINISTRATION
STATE PERSONNEL DIVISION



STAN STEPHENS, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620

September 30, 1992

Jim Adams, Associate Director
Montana Public Employees Association
P. O. Box 5600
Helena, MT 59604

Dear Jim:

I wrote to you on July 20, 1992, to express the state's willingness to meet with MPEA to receive your organization's economic proposal for the upcoming biennium. I have not heard from you.

This is to reiterate that the state is willing to meet with MPEA. Given the state's budget situation, I believe it is important that we begin discussing the difficult issues we both face. Please call me at your earliest convenience to schedule a mutually agreeable meeting date.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Johnson".

Steve Johnson, Chief
Labor Relations Bureau

SJ/mms

DEPARTMENT OF ADMINISTRATION
STATE PERSONNEL DIVISION



STAN STEPHENS, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620

June 12, 1992

Jim McGarvey, President
Montana Federation of State Employees
MFT, AFT, AFL-CIO
P.O. Box 6169
Helena, MT 59604

Dear Jim:

This is to let you know that Ken McElroy will be representing the state in pre-budget negotiations with MFSE. Please contact Ken directly at 444-3982 to schedule an initial meeting.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Johnson", is written over a horizontal line.

Steve Johnson, Chief
Labor Relations Bureau

cc: Ken McElroy

EXHIBIT 11
DATE 2/10/93
FB 451

August 4, 1992

Mike Dahlem, Staff Director
Montana Federation of State Employees
P. O. Box 6169
Helena, Montana 59604

Dear Mike:

We just wished to express the state's desire to meet with you for the purpose of receiving and discussing the Federation's economic proposals for the upcoming biennium. While we will be unable to present our own proposals until late summer or early fall, we believe that we could benefit from hearing your ideas and concerns now.

Please contact me as soon as possible to arrange a mutually satisfactory meeting date.

Sincerely,

Ken McElroy
Labor Relations Specialist

KRM/bmp

August 13, 1992

George Hagerman
Executive Director
Montana Council No. 9
AFSCME, AFL-CIO
P.O. Box 5356
Helena, MT 59604

Dear George:

To follow up on our telephone conversation, I'd like to formally express the state's willingness to meet with you to receive and discuss your organization's pay proposal for the upcoming biennium. Even though we will not be ready to present our own proposal until sometime this fall, I believe we could benefit from hearing your ideas and concerns now.

Please contact me to arrange a mutually satisfactory meeting date.

Sincerely,

Paula Stoll
Labor Relations Specialist

PS/yv

TESTIMONY IN OPPOSITION TO HOUSE BILL 451
BEFORE THE
HOUSE STATE ADMINISTRATION COMMITTEE

on
February 10, 1993

by
Sue Hill on Behalf of the Montana University System

Mr. Chairman, members of the Committee, my name is Sue Hill, and I am here representing the Montana University System. We oppose House Bill 451.

I have served as the chief spokesperson in negotiations for the university system for over eight years and previously worked as a negotiator for the State Personnel Division. I have considerable first-hand experience with state employee negotiations. It is difficult to argue against the proposition that the pay negotiations process for state employees is problematic. It is.

There are a variety of factors which contribute to the problems and frustrations associated with collective bargaining over salaries for state employees. One example is the large number of bargaining units. There are almost 100 separate bargaining units in state government, including 22 in the university system. I believe, however, the major obstacles to meaningful salary negotiations are political in nature and cannot be completely remedied. Part of the problem is the fact that while negotiations take place between the Governor's and The Board of Regents' representatives, it is the Montana Legislature that has the sole authority to appropriate funds for salary increases. No matter how early negotiations commence the realities of a two-party political system combined with separation of powers issues complicate salary negotiations in state government. It is because of similar issues that federal government employees don't have the right to negotiate over wages.

The intent of House Bill 451, to improve the workability of state salary negotiations, is admirable. However, passage of House Bill 451 will not improve things. It will make them worse. Prolonged negotiations are more likely to become contentious. Negotiating with 100 bargaining units is very time-consuming. Beginning negotiations before they can realistically result in agreement is a waste of resources that state government cannot afford. Think about how uncertain the political and economic situation was a year ago, January. Would it really make sense to begin negotiations 1 and 1/2 years before bargaining contracts expire? State negotiators would be bargaining almost continually, 18 months out of every 2 year period.

We recognize there may be situations where early negotiations would be productive and beneficial. In those instances, the parties can easily agree to an early start. Such matters are properly determined through negotiations and should not be dictated by the Legislature.

The Montana University System urges you to vote against House Bill 451. Thank you.

EXHIBIT 12
DATE 2/10/93
HB 451



MONTANA CHILDREN'S AGENDA 1993

EXHIBIT 13
DATE 2/10/93
HB None



Children's Day UPDATE

1993 Montana Children's Agenda

Childrens Day Update: February 10, 1993

Working Smarter: Coordinated Efforts and Improved management:

Montana Family Policy Act :

HB 18, Sponsored by Royal Johnson, has passed the House, was amended and passed the Senate, and is back in the House for consideration of Senate amendments.

Coordinating Council for Prevention

SB 34, Sponsored by Dorothy Eck, has passed both House and Senate and is awaiting Governor Racicot's signature.

Permanent Advisory Council for the Department of Family Services:

SB 187, Sponsored by Dorothy Eck, has passed the Senate and has been heard by the House Human Services Committee, where it awaits executive action.

Uniform Data Exchange Policy:

No legislation has been introduced.

DFS Management Information System (MIS) for Children and Families:

Part of the DFS budget, currently being heard in the Joint Human Services Subcommittee. The MIS will be individually discussed on 2/10, between 8:00 AM and noon in Room 108.

Improving DFS's Juvenile Corrections Services:

Has been discussed as part of the DFS budget in the Joint Human Services Subcommittee. Executive action is expected 2/11-2/12.

Enhanced Nursing Consultation for County Public Health Nurses:

Contained in Executive Budget for DHES, to be heard in Human Services Subcommittee during the week of 2/15-2/19.

Blinded Urine Study of Women of Childbearing Age for Alcohol, Nicotine, and Five Commonly Used Drugs in Montana:

No legislation has been introduced.

DFS Foster Care Caseload - No Increases until Functioning Preventive/Permanency Planning Services are Established:

Foster Care is an element of the DFS Budget, being heard in the Joint Human Service Subcommittee; executive action is expected 2/11-2/12.

Improved Access to Health Care:

Access to Health Care :

SB 267, Sponsored by Bill Yellowtail, creates a Health Care Commission charged with developing a single-payer universal access health care plan. The bill has been heard in the Senate Public Health Committee, where it awaits executive action.

SB 285, Sponsored by Eve Franklin, creates a Health Care Authority charged with developing two universal access plans for the 1994 legislature, one a single-payer and one a multiple-payer plan.

Hearing at 1:00 PM on February 10, before the Senate Public Health committee, Room 325.

Increase Medicaid Eligibility to 185% of Poverty for Pregnant women and Infants

Increase Medicaid Eligibility for Children:

Both of these proposals are contained in each of two separate bills, SB 177, sponsored by Dorothy Eck, and HB 145, sponsored by John Cobb. SB 177 ties the expansion to a tobacco tax increase, while HB 145, which also contains a number of Governor Stephens's "Health Care for Montanans" proposals, is written to be funded by a hospital bed tax. Each bill awaits executive action in committee, SB 177 in Senate Public Health, HB 145 in House Human Services.

Increase Medicaid Reimbursement to 80% of Charges for Children's Dental Services:

No bill or budget request has been made in the session.

Family Practice Residency

SB 312, Sponsored by Tom Beck, extends the existing satellite project beyond its current 2 month residency limit; funding is contained in HB 145, see above. Cost is estimated at \$200,000, to be matched with private and other funds. Hearing on SB 312 will be at 1:00 PM pm Friday, 2/12 in the Senate Public Health Committee.

Prevention Programs that work:

Expansion of MIAMI Programs to Unserved Areas

This proposal will be heard as an budget amendment to the DHES budget, during the week of 2/15-2/19 in the Joint Human Services Subcommittee. The MIAMI proposal will most probably be presented on Wednesday, 2/17, between 8-12 AM in Room 108.

Family Planning Community Educator:

Expansion of Family Planning Services:

Cervical Cancer Prevention Program:

None of these three proposals have been incorporated in either the LFA or the Executive budget. The base level of funding in the Executive budget is \$100,000 lower than the LFA for the biennium, and restoration of this funding will be before the Joint Human Services Subcommittee the week of 2/15-2/19.

Establish Medicaid Kids Count (EPSDT) Case Managers:

Proposal was made to the Joint Human Services Subcommittee in SRS budget.

Medicaid - Chemical Dependency Treatment for Pregnant Women:

On inquiry, we learned that these women can receive treatment at DCHS-funded treatment programs on a priority basis, on a sliding fee schedule which would require no payment. Proposal withdrawn.

Increase Nursing Support for Immunization Services and Outreach in Montana Counties

Immunization Education Campaign and Video

These will be heard as budget issues in the DHES budget, before the Joint Human Services Subcommittee 2/15-2/19.

Risk Identification and Home Visiting for New Families:

Follow Me:

This will be heard as part of the DHES Budget, in the Joint Human Services Subcommittee 2/15-2/19.

Healthy Start:

HB 492, Sponsored by Tim Dowell, authorizes Healthy Start Pilot Projects in DFS. Funding is part of the DFS refinancing and reform package, currently before the Joint Human Services Subcommittee: executive action is expected 2/11-2/12.

Economic Survival of Montana's Families:

Restore AFDC Funding to 42% of Poverty level

This proposal is part of the SRS budget process. To date, the Joint Human Services Subcommittee has voted against any increase, and also against maintaining the current rate. Final action has not been taken, however, and will probably await the end of the subcommittee process, 2/22.

Child Care Rate Increase for State Assisted Child Care Programs:

This is before the Joint Human Services Subcommittee as part of the SRS budget. As of this date, no increase has been approved.

Child Care Programs - Self-initiated Training and At-Risk

A proposal for increased general fund match for these programs was approved tentatively by the Joint Human Services Subcommittee, but is subject to adjustment before the subcommittee deadline or 2/22.

Child Care Licensing Staff for DFS:

Before the Joint Human Services Subcommittee in the DFS budget, executive action 2/11-2/12.

Supporting Montana's Families in crisis:

Protective Services Staff Needed by DFS:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Development of DFS's Continuum of Services for Youth and Their Families:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

DFS Family-Based Services for Family Preservation:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Indian Children Services Bureau for DFS IV-E Foster Care Contracts:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Increase the rates for Foster Family Support Services Package:

SB 180, Sponsored by Chris Christiaens, was referred to the Senate Rules Committee 1/18, where it awaits action.

Increase Basic Foster Care Maintenance Rates:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Services for Non-agency Seriously Emotionally Disturbed (SED) Youth (pilot program):

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Day Treatment for Seriously Emotionally Disturbed (SED) Youth:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Respite Services for Children and Adolescents with Severe Emotional Disturbance:

Before the Joint Human Services Subcommittee as part of the DFS budget; executive action 2/11-2/12.

Funding Our Future:

Target selected Excise Taxes for Health and Human Services:

Two Tobacco tax increases are before the Senate, SB 177, sponsored by Dorothy Eck and SB 305, sponsored by Terry Klampe. Both are currently before the Senate Public Health committee, where SB 177 has been heard and awaits executive action, and SB 305 awaits setting of a hearing date. A general plan is circulating to use the revenues to fund prevention projects, health care reform/universal access plans, such as SB 267 and SB 285 (see above), and Medicaid services to pregnant women and children.

Children's Services Refinancing and Reform Project:

Before the Joint Human Services Subcommittee in the DFS budget; executive action 2/11-2/12.

** A note about the Appropriations Process:*

As of 2/10/93, all department budgets are being reviewed for targeted cuts totalling \$99,000,000 (over the biennium) in joint subcommittees. The biennial target for the Joint Human Services Subcommittee is currently set at \$29.9 million. The deadline for action on the budgets of DSRs, DFS, DHES & DOL, by the Joint Human Services Subcommittee, is 2/21/93. Then the House Appropriations Committee (2/22) and the House as a whole (2/23-24), will act on the budget as a whole. The Budget bill, HB 2, will then be transmitted to the Senate, where it will come before the Senate Finance and Claims Committee.

"Dogs and cats," appropriations which are not in department budgets, are heard irregularly throughout the session, with a deadline of 3/25 for transmittal to the other house.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. 48479
DATE 2/10/93 SPONSOR(S) Rep. Larson
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Paul McEnty</i>	<i>Butte - Silver Bow County Hwy</i>	✓	
<i>Mike Shea</i>	<i>Butte - Silver Bow</i>	✓	
<i>Ed Eaton</i>	<i>Local mobile home courts</i>	✓	
<i>Jack Lynch</i>	<i>Butte - Silver Bow</i>	✓	
<i>Paul Torok</i>	<i>Seeley Lake W D</i>	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration

COMMITTEE

BILL NO. HB451

DATE 2/10/93

SPONSOR(S)

Rep. Harrington

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sue Hill, Helena	Board of Regents		X
Tom Schneider	MPEA	X	
Mike Dahlen	MFT	X	
Steve Johnson	State Labor Relations Bur.		X
Terry Minow	MT Ed State Employees	X	

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