

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIRMAN, on February 11, 1993,
at 8:14 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. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. Sheila Rice (D)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Norm Wallin (R)

Members Excused: Rep. Bob Gervais

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 430; HB 431; SB 131
Executive Action: HB 479 (postponed); HB 486 (tabled); HB
451 (tabled); HB 431 (amended)

EXECUTIVE ACTION ON HB 479

Discussion:

REP. SIMPKINS reminded the committee that several proponents for
the bill had asked the bill be amended to require economic impact

assessments by state agencies for impacts of \$10,000 or more rather than the \$50,000 impact specified in the bill.

REP. DON LARSON said he had visited with local government officials and the Department of Health and Environmental Sciences and had concluded that to make the assessments meaningful, the bill should be amended to reduce the \$50,000 to \$10,000 for first-class cities and \$2,500 for any other local governing body.

EXHIBIT 1

Bob Robinson, Director, Department of Health and Environmental Sciences (DHES), distributed a fiscal note for HB 479. **EXHIBIT 2** He said the cost to DHES alone would be approximately \$900,000 per year. He acknowledged no departments were currently conducting economic assessments. He said he expected this legislative session would result in about 25 changes in law which will affect DHES and for which DHES will need to formulate administrative rules. He said DHES differed from many other agencies in that DHES's rules normally affect local government. He said DHES would probably need to hire economic consultants on contract to write the economic assessment statements. Since DHES has not actually conducted economic assessments, he indicated the \$900,000 expense was an estimate. **Mr. Robinson** pointed out assessing the economic impact at the time of rule-making was irrelevant since the legislature would have already created the law for DHES to implement. He concluded changing the \$50,000 figure would probably not change the fiscal impact on DHES since DHES rules would affect both large and small communities. Thus, he assumed the economic impact assessments would be required for most rule changes.

REP. SIMPKINS asked **Mr. Robinson** to explain his estimated cost. **Mr. Robinson** said he interpreted the bill to require DHES to complete an economic analysis for every community affected by a rule change.

REP. DAVIS asked **REP. LARSON** to respond to **Mr. Robinson's** comments. **REP. LARSON** said he had not seen the fiscal note, but he did not consider the \$900,000 estimate accurate. He reminded the committee DHES had asked for an additional 57 FTEs for whom position descriptions had not been completed. He suggested the economic impact assessments would be meaningful work for them.

REP. MOLNAR asked **Mr. Robinson** to suggest ways to ensure laws could be practically applied. **Mr. Robinson** said DHES was sensitive to the impact of their rules. He said the agencies in which he had previously been involved had normally used a cooperative rules-writing process in which affected parties participated. He acknowledged administrative rules by DHES would likely have a significant impact on local governments because of the problems they addressed. **Mr. Robinson** noted testimony during the hearing was correct; many state mandates have a significant cost to local governments and yet are not accompanied by funds to implement mandates.

REP. MOLNAR suggested to Mr. Robinson the economic impact assessment could be part of the rules-making process and would not require separate time and effort by DHES. Mr. Robinson said an economic impact statement was a much more formal procedure than informal discussions with affected parties. He suggested the bill would require contact with every community in the state to assess the status of infrastructure and the cost to implement new requirements.

REP. DAVIS suggested action be postponed until the sponsor had an opportunity to review the fiscal note.

REP. SIMPKINS postponed action.

EXECUTIVE ACTION ON HB 486

Discussion:

Sheri Heffelfinger reviewed current statutes on campaign materials and procedures. She said her research showed election materials cannot be anonymous; individuals cannot disseminate misleading official-looking materials; and tampering of election records is prohibited. She noted, however, the prohibition on tampering did not specifically include sample ballots. EXHIBIT 3

REP. SIMPKINS asked Joe Kerwin, Election Bureau Chief, Secretary of State, whether a voter could carry campaign materials into the voting booth. Mr. Kerwin said voters could carry in campaign materials; he said voters could not electioneer which meant they could not display a button or other campaign material in the voting area.

REP. SIMPKINS asked Mr. Kerwin whether HB 486 should be placed in chapter 12 of statute. Mr. Kerwin said he thought that would be the appropriate place for the bill. Ms. Heffelfinger suggested the bill had been written to amend chapter 12 because that chapter addressed sample ballots. She said, however, it is chapter 35 which addresses defacing or altering official records so the bill could be placed in chapter 35.

REP. DAVIS asked Mr. Kerwin to describe the difference between an "official sample ballot" and a "simulated ballot". Mr. Kerwin responded neither was an official ballot.

REP. SIMPKINS asked Mr. Kerwin whether he thought HB 486 was necessary. Mr. Kerwin responded he was not sure there was a need for the bill.

Motion: REP. MASON MOVED HB 486 DO PASS.

Motion/Vote: REP. ROSE MADE A SUBSTITUTE MOTION THAT HB 486 BE TABLED. Motion carried 15 to 1 with REP. MOLNAR voting no and REPS. SQUIRES and GERVAIS voting by proxy. EXHIBITS 4, 5

EXECUTIVE ACTION ON HB 451

Motion: REP. BARNHART MOVED HB 451 DO PASS.

Discussion:

REP. WALLIN said he found the employee negotiation issue problematic during campaigning and suggested having earlier negotiations would exacerbate the problem. He said he would prefer having the negotiation issue removed from the election process. He said he opposed HB 451.

REP. DAVIS said one-year advance negotiations would be helpful if the areas of contention were defined by both sides.

REP. SPRING noted collective bargaining negotiations could begin earlier without HB 451.

REP. STOVALL asked how people could be required to negotiate.

REP. GALVIN said no one could be forced to negotiate; he noted the state labor negotiator had sent out meeting requests and the unions had not responded.

REP. REHBEIN asked what action would constitute the "commencement of negotiations". REP. GALVIN responded sending out notices would be "commencement".

REP. ROSE asked what effect the bill would have on the university system. REP. SIMPKINS noted the university representative had testified against the bill. REP. RICE responded the bill applied only to teachers who were state employees.

REP. WALLIN said the bill would not eliminate the basic problem of determining what funds were available to the state for state employee pay increases.

REP. SIMPKINS said his interpretation of testimony was so long as the legislature appropriates the funds for pay increases, collective bargaining negotiations will remain at a standstill until the legislative session. He recounted the change in governors also created a problem because the outgoing governor must produce a budget which the incoming governor may modify before submitting it to the legislature. He said state employees had two avenues for negotiating: the administration and the legislature.

REP. GALVIN reminded the committee more than wages were negotiated in collective bargaining.

REP. SCHWINDEN supported the bill stating that although it does not solve all the problems, it does set up a better process.

Motion/Vote: REP. SPRING MADE A SUBSTITUTE MOTION THAT HB 451 BE TABLED. Motion carried 9 to 7 on a roll call vote with REPS. DAVIS, BARNHART, GALVIN, GERVAIS, RICE, SCHWINDEN, and SQUIRES voting no and REP. GERVAIS and SQUIRES voting by proxy. EXHIBITS 4, 5, 6

HEARING ON HB 431

Opening Statement by Sponsor:

REP. ERVIN DAVIS, House District 53, Charlo, introduced HB 431 on behalf of REP. BILL STRIZICH. The bill revises the benefit paid to the surviving spouse of some members of the municipal police officers' retirement system and increases the state contribution from the insurance premium tax to fund the benefit change.

Proponents' Testimony:

Bill Steele, Chairman, Legislative Committee, Montana Retired Police Association, supported HB 431. He explained the bill would bring the municipal police officers' retirement system in line with other retirement systems in terms of benefits paid to surviving spouses. He reported because of current law, seven widows who were in their 70's and 80's were required to pay retirement money back to the state. Since police officers do not receive social security, this retirement benefit was the sole income for these widows. Mr. Steele said the bill would prevent other widows from having the same problem.

Jerry Williams, Montana Police Protective Association, supported HB 431. He reported in 1991 the retirement board had been notified that they had been overpaying some widows. He explained police officers receive one-half their final average salary as their retirement benefit; if officers work beyond 20 years, they may receive 52-53% of their final average salaries as their benefit. The law states surviving spouses or children can receive only 50% of the police officer's final average salary. He said the retirement board mistakenly continued to send some widows the larger benefit their spouses had been receiving. When the problem was discovered, these widows were required to reimburse the retirement system; and some widows had to pay \$2,300. Their monthly benefit checks were also reduced to the lower benefit amount. He said the Association believes surviving spouses or children should receive the same benefit as the retired police officer. He said HB 431 was a fair and equitable bill for surviving spouses and children.

Bill Ware, Chief of Police, Helena, and Legislative Chairman, Montana Association of Chiefs of Police, said the Association had discussed the issue and concluded it was in the best interests of

retired police officers and their spouses to have the protection provided by HB 431. He said the Association stood in support of the bill.

Jim Oberhofer, Chief of Police, Missoula, and President, Montana Association of Chiefs of Police, said he stood by earlier testimony and supported the bill. He said several widows had described the difficulties they had encountered because of current law to the Association. He urged the committee support the bill.

Linda King, Assistant Administrator, Public Employees' Retirement Division (PERD), provided written testimony in support of HB 431. She noted the bill provides for funding the proposed change through the insurance premium tax fund. She said if the legislature determined the state could not afford to make the increased contributions from the insurance premium tax fund, the retirement board asked that funding be provided by increased contributions from active members and/or their employers.

EXHIBIT 7

George Hagerman, Director, American Federation of State, County, and Municipal Employees, stated the Federation supported the bill.

Opponents' Testimony:

Dave Ashley, Deputy Director, Department of Administration, opposed HB 431 because of its cost to the general fund. He said the cost would be about \$29,000 in FY 94 and \$29,000 in FY 95 with a continuing cost to the general fund thereafter. He pointed out this change would be a new retirement benefit and a new cost to the police officers' retirement system. He said without new revenue, the bill would make it more difficult for the legislature to achieve its budgetary expenditure targets.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. DAVIS asked **Ms. King** whether the interim committee on retirement had discussed the police officers' surviving spouse benefits. **Ms. King** said this specific case was not discussed and noted the interim committee had recommended an ongoing committee to deal with these issues. **REP. DAVIS** asked **Ms. King** whether this particular problem should be addressed in this session. She said six individuals were affected currently and addressing their cases now would cost less than waiting until some future date. She noted, however, some of these individuals were quite elderly and might die prior to some delayed action.

REP. MASON asked **Mr. Ashley** how many years the unfunded liability would be increased for the proposed benefit. **Mr. Ashley** deferred the question to **Ms. King** who responded the proposal would not

result in an unfunded liability. **Ms. King** explained the total cost to prefund the benefit would be \$538,000. She said the contribution rate increase included in the bill was sufficient to pay for the benefit in the future and to fund the unfunded liability over a period of years. **REP. MASON** asked **Ms. King** whether the benefit would increase the current 24-year amortization period for the retirement system. **Ms. King** said with the level of funding specified in the bill the amortization period would not increase.

REP. MOLNAR asked **Mr. Ashley** whether there was an alternative to a general fund appropriation to fund the benefit. **Mr. Ashley** explained the police officers' retirement system was funded by a portion of taxes on insurance premiums. He said the insurance premium tax fund was collected by the state auditor and was estimated to be \$29 million for FY 94. A portion of the insurance premium tax fund was statutorily appropriated to fund various retirement benefits with the remaining balance of the fund going into the general fund. **Mr. Ashley** explained HB 431 would require about \$29,000 more of the insurance premium tax funds which would then result in a net loss of \$29,000 to the general fund. He said in order to match new costs with new revenue the insurance premium taxes could be increased.

REP. RICE asked **Mr. Ashley** if he knew the current insurance premium tax rate. **Mr. Ashley** said he did not know. **Ms. King** said the rate varied depending on the type of insurance policy.

REP. RICE asked **Ms. King** what percentage increase would be required if the benefit were to be paid through employee and employer contributions. **Ms. King** responded an overall increased rate of 0.26% of salaries would be required with an increased contribution of 0.13% of salary paid by both employer and employee.

REP. GALVIN asked **Mr. Steele** whether police officers' retirement contributions were a fixed amount or a percentage of salary. **Mr. Steele** said he was unsure since he was retired and no longer making contributions. **Mr. Ware** responded the contribution was based on a percentage of gross salary.

REP. SIMPKINS asked **Ms. King** whether any other public retirement funds had the same problem. **Ms. King** reported three retirement systems continue benefits automatically to survivors: the highway patrol, firefighters, and police officers. The other four retirement systems administered by PERD and the teachers' retirement system require the member to take an actuarial reduction to continue benefits to survivors. She said of the three systems in which the benefit is automatic, only the police officers' system has a reduction in benefit to survivors; the other two systems continue the retirees' benefit to survivors. She said passage of HB 431 would make the police officers' system consistent with the other two systems.

REP. SIMPKINS asked Ms. King if the three retirement systems had an automatic cost of living adjustment (COLA). Ms. King said the three systems had minimum benefits, and the highway patrol system has an additional distribution for people who retired prior to 1991.

REP. SIMPKINS asked Ms. King whether extending the unfunded liability was an alternative, if the benefit change were not funded. Ms. King said the retirement board would very much oppose any enhancement extending unfunded liabilities. She said the current amortization period in the police officers' system was close to the maximum considered to be reasonable.

REP. SIMPKINS suggested to Ms. King that the bill, as it stands, would need to go to appropriations; without an appropriation the bill would extend the unfunded liability. Ms. King said her earlier testimony had asked, on behalf of the retirement board, that if general fund money was not available, the committee consider increasing the contribution rates for members and/or their employers to pay for the benefit.

REP. ROSE asked Ms. King whether the increased contribution would be funded by cities. Ms. King responded if the committee does not think funding is available from the insurance premium tax, then the system members and the cities were the other funding sources. REP. ROSE asked Ms. King whether she could estimate the cost to Great Falls. She said it would be 0.13% of the city's police officer payroll.

REP. REHBEIN asked Ms. King whether police officers were willing to fund the benefit. Ms. King deferred to Mr. Ware who said they had not discussed the issue because affected individuals were retired, and the issue would need to be considered by their respective associations. He stated the police chief's association considered the insurance premium tax fund the appropriate funding source for the proposed benefit.

Mr. Williams responded to REP. REHBEIN'S question. He reported the Montana Police Protection Association was under the impression the insurance premium tax fund had been designed specifically to pay for benefits of the police officers' retirement system. He said the Association considered this particular benefit so important that, if necessary, the 0.26% increase in contributions should be split among active police officers, cities, and insurance premium tax fund.

Sheri Heffelfinger described the options available to the committee to fund the bill: (1) the bill, as written, would result in a general fund impact; (2) the insurance premium tax could be raised; (3) the employee and/or employer contribution rate could be increased; or (4) the unfunded liability could be increased. She noted the retirement board would oppose the last option.

Closing by Sponsor:

REP. BILL STRIZICH, House District 41, Great Falls, stated the issue in HB 431 was equity. He said while there was concern about funding, the committee should remember that the effect was on 94 widows of police officers. He urged the committee make the connection between funding and the individuals affected by the bill. He begged the committee's indulgence on the bill.

HEARING ON HB 430**Opening Statement by Sponsor:**

REP. BILL STRIZICH, House District 41, Great Falls, introduced HB 430 on behalf of the Montana Police Protective Association. He said the bill allows for an increase in the retirement benefit for members of the municipal police officers' retirement system who work more than 20 years. He said the bill funds the benefit increase through the insurance premium tax fund.

Proponents' Testimony:

Jim Oberhofer, Chief of Police, Missoula, and President, Montana Association of Chiefs of Police, explained police officers currently earned a 2.5% retirement benefit for each year of service up to 20 years of service. After 20 years of service, police officers earn only a 1.0% retirement benefit for each continuing year of service even though contributions to the retirement system by both police officers and cities did not decrease. He said the effect is to penalize officers for working more than 20 years. He contended increasing the earned retirement benefit would give police officers greater incentive to continue their service. He asserted the tax-paying public loses the benefit of police officers' education and experience if they retire at 20 years of service.

Bill Ware, Chief of Police, Helena, and Legislative Chairman, Montana Association of Chiefs of Police, reported the Association had agreed to introduce and support the bill for the reasons given by Mr. Oberhofer. He reported in his police department officers with 20 years experience retire and then seek other employment. He explained police officers with 20 years service would be at the peak of their careers and may want to continue their service. They have no incentive to stay, however, because while their retirement contributions continue to increase, their earned benefit decreases. He contended the current system penalized police officers for service beyond 20 years. He asked the committee for favorable consideration.

Bill Steele, Chairman, Legislative Committee, Montana Retired Police Association, stated he retired in 1980 from the Great Falls police department. He said his retirement benefit in 1980 was sufficient, but he said the benefit had not increased in the

last 13 years. He contended police departments need to retain their experienced officers to maintain a high level of professionalism, and the bill would help departments keep these officers.

Jerry Williams, Police Officer, Butte-Silverbow, and Montana Police Protective Association, stated his Association's support of HB 430. He explained police officers did not receive social security; the police officers' retirement fund was their only pension. He said police officers currently pay differing contribution rates into the retirement fund depending on when they were hired. **Mr. Williams** claimed the decreased retirement benefit for officers with more than 20 years service was a built-in inequity. He said the Association had contacted the League of Cities and Towns, and the League supported the bill.

Frank Cole, retired police officer, Missoula, stated he had retired as assistant chief. He said he had been asked to remain as chief of police, but he retired because he had no incentive to stay. He reported he had attended many city council meetings as an active police officer, but he had acted in accordance to the view that the "man with the gun" should not influence the system. He said he felt legislators had a duty to help the law enforcer by keeping their retirement system equitable with others. He asked for the committees' support for both HB 430 and HB 431.

George Hagerman, Director, American Federation of State, County, and Municipal Employees, supported the bill.

Vern Erikson, Montana State Firemen's Association, said they stood in support of the bill. He said he had been working with **Ms. Heffelfinger** on an amendment to create parity between the police officers' and firefighters' retirement systems.

Opponents' Testimony:

Dave Ashley, Deputy Director, Department of Administration, stated the department had no conceptual disagreement with the benefit. He said, however, the department opposed HB 430 because it would be funded at \$165,000-\$170,000 per year from the insurance premium tax fund which is a general fund revenue source. He reminded committee members that in their orientation on public retirement systems, the department had discussed "leapfrogging" in which a benefit given to one system is followed by requests from other systems for the same benefit. He pointed out the highway patrol had asked for a similar benefit two years ago, and now the police officers and perhaps firefighters were asking for the benefit. **Mr. Ashley** acknowledged the benefit was attractive, but he noted it was also expensive. He recounted two years ago both the department of administration and the retirement board had opposed the benefit for the highway patrol. He said the bill introduced a philosophical question of who should pay for the enhanced benefit: the state, city, or police

officer. He asked the committee to consider this question as they discussed the bill.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. ROSE asked Mr. Ware whether police departments had internal controls to prevent police officers who had become too old from remaining just for retirement benefits. Mr. Ware assured REP. ROSE the department had evaluation processes including yearly performance evaluations.

REP. SIMPKINS asked Ms. King to review the history of the police officers' retirement system. Ms. King said initially all police retirement pensions were paid by individual city pension funds. A number of those individual systems had insufficient funds to pay their retirees' monthly benefits, and thus, these systems were unified into a statewide fund in 1975. Class I and Class II cities are required to be members of the municipal police officers' retirement system. Ms. King said when the statewide system was formed, police officers retained benefits promised to them under their individual systems. One such benefit was retirement with 20 years service regardless of age. However, in order to make the statewide system viable, the legislature had to include a retirement age requirement of 50 years and decrease the earned benefit after 20 years of service. She said inequities exist because pre-1975 police officers' benefits were grandfathered into the system while police officers hired after 1975 came under the system as set by the legislature.

REP. SIMPKINS asked Ms. King whether the inequities were understood when the system was created. Ms. King responded while it was theoretically possible to reduce benefits for new employees, eventually these employees will ask for equity in benefits. She said in 1975 it was possible to reduce benefits for the new system, but actually funding the greater benefits from the beginning was preferable because retroactive changes in benefits cost more than funding benefits from the start. Ms. King said the request to address inequities is not "all of a sudden", but a matter of people hired in 1975 approaching the retirement age and now being affected.

REP. DAVIS noted the Department of Administration apparently agrees an inequity exists and funds are insufficient and asked Mr. Ashley to suggest some options acceptable to the department. Mr. Ashley said Ms. Heffelfinger had described the options in the discussion of HB 431. He said from the department's perspective any new benefit should be associated with new revenues from either the member, city, and/or an increase in the insurance premium tax. REP. DAVIS asked if he was omitting a state contribution. Mr. Ashley responded the insurance premium tax is a general revenue source and thus a state contribution.

Closing by Sponsor:

REP. STRIZICH said the question before the committee was whether the state had any responsibility in bringing equity to the system. He suggested the state had a responsibility in terms of equity and because affected individuals are enforcers of state laws. He stressed the importance of taking good care of these particular public servants. He said the committee should broach the subject of increasing the insurance premium tax. He urged the committee to give consideration to the bill.

HEARING ON SB 131Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, Senate District 22, Helena, introduced SB 131 which calls for a constitutional amendment to require the legislature to meet annually in regular sessions for not more than 90 legislative days during a biennium. SEN. WATERMAN said SEN. BOB BROWN was co-sponsor of the bill which was requested by the Montana Legacy Legislature. She contended the current biennial system does not work. She noted the legislature has met more than one time per year in special sessions over the last decade. She said she had chosen general language for the bill in the belief that constitutional language should set the parameters for large issues. She maintained more specific issues, such as the number of meeting days or types of bills to be considered, should be determined by the legislature. SEN. WATERMAN said she thought the issues of most concern to the people of Montana were that the legislature operate efficiently and meet for no more than 90 days. She said she thought the public understood the need for annual sessions but did not want the legislature to become a full-time professional legislature. She asserted Montana state government has operated by crisis management for the last several years, and the bill would provide an opportunity for a better system. She noted lines 2-3, page 2, had been eliminated in order to assure the public the legislature would not extend sessions beyond 90 days. She recounted past constitutional amendments to institute annual sessions had all included lengthening sessions to a total of 100 legislative days. She attributed the failure of these amendments to the increased length. She declared it was again time to ask Montana voters to consider annual sessions.

Proponents' Testimony:

SEN. BOB BROWN, Senate District 2, Whitefish, stated SB 131 would actually restrict the language in the constitution which now gives one legislature the authority to lengthen future legislative sessions. He said the bill proposes to create annual sessions which more sensibly apportion the 90 days over the biennium. He reported since 1986 there have been seven special sessions for a total of 72 days, and he argued annual sessions

would have avoided the need for special sessions. He described the special sessions as unpredictable, pressure-packed, and political rather than deliberative. He reported in the last three biennia the legislature has approved supplemental budget amendments totalling \$170 million. He explained this money was spent during the biennium when the legislature was not available to act as the state's board of directors. He suggested if the legislature had been present on an annual basis, the budget supplements may not have been needed. He claimed any time the policy-making authority of a large organization only meets officially once every two years, problems will arise. He asserted the bill proposed a way for the legislature to be more effective. He urged the committee give the bill a do concur recommendation.

Verner Bertelsen, Montana Legacy Legislature, provided written testimony in support of SB 131. He described the Legacy Legislature as an organization of senior citizens who meet semi-annually to consider legislative changes they consider important. He stated annual sessions would allow better budgeting, better coordination of federal programs, and avoid disruptive, expensive special sessions. **EXHIBIT 8**

Amy Kelley, Executive Director, Common Cause Montana, supported SB 131. She said she had testified for HB 319 which also proposed annual sessions. She reiterated Common Cause viewed annual sessions as a way to improve legislative efficiency and decision-making and to eliminate the need for costly, chaotic, special sessions.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. RICE asked **SEN. WATERMAN** to compare SB 131 to **REP. KADAS'** bill. **SEN. WATERMAN** said she thought both **REP. KADAS** and **REP. GRINDE** had good ideas about the mechanisms for making annual sessions effective. She said the legislature, rather than voters, needs to decide specifics, such as session length, committee structure, and bill deadlines, because legislators operate within the system and know the most logical and reasonable ways to organize the legislature. She argued the electorate should vote on the overall concept.

REP. RICE stated the constitution already gives the legislature the capability of annual sessions and asked **SEN. WATERMAN** whether the bill was necessary. **SEN. WATERMAN** reported she had met with **REP. GRINDE** and **REP. KADAS** in November, and they had agreed the legislature could choose by rule to adjourn on, for example, the forty-fifth day of the session and set a time in the next year to return and complete the session. She said she thought the public would perceive such an act as circumventing the constitutional

intent of biennial sessions. She contended the issue would also become a legislative debate every biennium.

REP. ROSE referred to SEN. BROWN'S comments concerning the effect of the legislature's absence on state government and asked SEN. WATERMAN whether department heads were responsible. SEN. WATERMAN said she thought department heads were responsible. She explained changes in society or other conditions resulted in unforeseen circumstances for state agencies; however, before the agencies can respond, the legislature must decide policy and give agencies the authority to act. REP. ROSE asked SEN. WATERMAN whether she thought the bill would solve problems caused by agency actions. SEN. WATERMAN responded annual sessions might not solve the problems, but it would afford the legislature the ability to oversee changes more closely.

REP. SPRING asked SEN. WATERMAN whether the bill was heavily debated in the Senate. SEN. WATERMAN confirmed the bill had been heavily debated in committee and received a do not pass recommendation. She said the major concern in the Senate was lines 2-3, page 2, which were changed in Senate debate. She said the bill passed the Senate 27 to 23. She asserted Montanans should have the opportunity to vote on the amendment in the interest of good government and expressed the hope the House would pass the bill with 73 votes.

Closing by Sponsor:

SEN. WATERMAN stated the bill would allow legislators to complete their job and go home and urged the committee to support the bill.

EXECUTIVE ACTION ON HB 431

Motion: REP. RICE MOVED HB 431 DO PASS.

Motion/Vote: REP. RICE moved to amend HB 431 to change the funding source to an increase in contributions from employer and employee. Motion carried 14 to 1 with REP. WALLIN voting no and REPS. GERVAIS, SQUIRES, BARNHART, and SCHWINDEN voting by proxy. EXHIBITS 4, 5, 9, 10, 11

Motion/Vote: REP. RICE MOVED HB 431 DO PASS AS AMENDED. Motion carried 14 to 1 with REP. WALLIN voting no and REPS. GERVAIS, SQUIRES, BARNHART, and SCHWINDEN voting by proxy. EXHIBITS 4, 5, 10, 11

ADJOURNMENT

Adjournment: 10:57 a.m.



DICK SIMPKINS, Chair



DOROTHY POULSEN, Secretary

DS/DP

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

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Mr. Speaker: We, the committee on State Administration report that House Bill 431 (first reading copy -- white) do pass as amended.

Signed: *Dick Simpkins*
Dick Simpkins, Chair

And, that such amendments read:

1. Title, lines 6 and 7.

Strike: "THE" on line 6 through "TAXES" on line 7

Insert: "EMPLOYER AND EMPLOYEE CONTRIBUTIONS"

2. Title, line 8.

Strike: "19-9-702,"

Insert: "19-9-601, 19-9-703"

3. Page 1, line 13 through page 2 line 6.

Strike: Section 1 in its entirety

Insert:

"Section 1. Section 19-9-601, "MCA, is amended to read:
"19-9-601. Member contributions. (1) The normal contribution of each active member is ~~6%~~ 6.13% of ~~his~~ the member's monthly compensation. In the case of a member first employed by an employer as a police officer after June 30, 1975, the contribution is ~~7.2%~~ 7.33% of ~~his~~ the member's monthly compensation. In the case of a member first employed by an employer as a police officer after June 30, 1979, the contribution is ~~8.7%~~ 8.83% of ~~his~~ the member's monthly compensation. Compensation excludes overtime payments, holiday payments, shift differential payments, compensation time payments, and payments in lieu of sick leave and annual leave, for ~~his~~ services as a police officer.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions which

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would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages as defined in 19-1-102 and ~~his~~ the member's monthly compensation as defined in 19-9-104. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 2. Section 19-9-703, MCA, is amended to read:

"19-9-703. Employer contribution. Each employer shall make its contribution on behalf of members through the city treasurer or other appropriate official out of ~~moneys~~ money available to the city for such purpose. The employer's contribution, which must be paid monthly to the administrator, is:-

~~(1) 14.04% of the total monthly compensation paid to all active members during the preceding month before July 1, 1985;~~

~~(2) 13.02% of the total monthly compensation paid to all active members during the preceding month from July 1, 1985, through June 30, 1991; and~~

~~(3) 13.92%~~ 14.05% of the total monthly compensation paid to all active members during the preceding month after July 1, ~~1991~~ 1993."

Renumber: subsequent sections

4. Page 4, line 15 through page 5, line 10.

Strike: the second "and" on page 4, line 15 through "1993" on page 5, line 10

Insert: ", then the employee contributions shown in [section 1 of this act], amending 19-9-601, must be increased by 0.31% and the employer contribution shown in [section 2 of this act], amending 19-9-703, must be increased by 0.31%"

5. Page 5, line 12.

Strike: "2"

Insert: "3"

-END-

341425SC.Hof

Amendments to House Bill No. 479
First Reading Copy

Requested by Rep. Don Larson
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
February 10, 1993

1. Page 10, line 5.

Strike: "\$50,000"

Insert: "\$10,000 for a first-class city and \$2,500 for any other
local governing body"

EXHIBIT 1
DATE 2/11/93
HB 479

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for , HB479 as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: HB479 would require state agencies to prepare economic impact statements and if the review revealed an economic impact on local governments, identify funding sources for the implementation of state regulations.

ASSUMPTIONS:

1. The Department of Health and Environmental Sciences (DHES) averages 25 sets of new rules per year. The Environmental Sciences Division (ESD) is responsible for about 90 percent of the new rules.
2. The department does not have an economist and support staff to prepare economic impact statements (EIS). The preparation of an economic statement would require an economist, researcher and clerical support. Funds would also have to be included for printing and distribution. The average economic statement would probably take about six (6) weeks to prepare. (6 X 40 = 240 hr. each)
3. Due to the uncertain nature of new rules it would probably be best to use private contractors to prepare the economic statements. An average current rate for hiring the appropriate personnel is: An economist, \$50/hr.; a researcher, \$40/hr., and clerical support, \$35/hr. (These rates are not static and will likely increase in the next two years.) (\$50 + \$40 + \$35 = \$125/hr.) (25 new rules X 240 Hours X \$125/hr = \$750,000)
4. Travel will average around \$2,000 per statement. (\$2,000 X 25 = \$50,000)
5. Printing and distribution will range from \$3,000 to \$5,000. (\$4,000 X 25 = \$100,000)
6. The DHES has no existing funding source for this proposal.
7. The DHES would request a general fund appropriation to fund economic statements.

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Operating Expenses	0	900,000	900,000	0	900,000	900,000
<u>Expenditures:</u>						
General Fund	0	900,000	900,000	0	900,000	900,000
<u>Net Impact:</u>						
General Fund	0	(900,000)	(900,000)	0	(900,000)	(900,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Costs for contracted services are continually increasing. The trend will likely continue.

DAVID LEWIS, BUDGET DIRECTOR DATE
ific Bu at Prog Pla ing

Larson
sponsor name here, PRIMARY SPONSOR
Fiscal Note for HB479 as introduced

February 8, 1993

DATE

EXHIBIT 2
DATE 2/11/93
HB 479

Campaign Material
Summary of House Bill No. 486
Rep. Simon

Prepared by Sheri S. Heffelfinger

Current law

Section 13-35-225. Election materials not to be anonymous. This section provides that election materials may not be anonymous. All campaign material must have the name and address of the person who made or financed the material, including the name of the political committee and treasurer, if applicable, and the supported candidate's party affiliation.

Section 13-35-235. Incorrect election procedures information. This section states that "a person may not knowingly and purposely disseminate to an elector information about election procedures that is incorrect or misleading or gives the impression that the information has been officially disseminated by an election administrator."

Section 13-35-205. Tampering with election records and information. This section says a person may not tamper with official public records or information and covers:

- certificates of nomination
- voting machines
- election returns
- the official ballot
- voter registry
- poll lists or checklists

It does not cover tampering with sample ballots.

HB 486	Rep. Simon	Prohibit unauthorized alternation and distribution of official sample ballots and regulates simulated ballots.
--------	------------	--

EXHIBIT 3
DATE 2/11/93
HB 486

2/10/93

To whom it may Concern.

I give my proxy vote to
Rep. Davis on all Bills, Resolutions
and other actions in State Action.
on this date 2/11/93

HB 486. Title YES Rep. 2/10/93
DATE 2/11/93
EXHIBIT 4
HB 486, 431

HB 451 " NO
HB 431 " ~~YES~~ General
as General etc

Give my proxy to Bev Barnhart
en all voted etc on 2/11/93

Coralyn Guire

EXHIBIT 5
DATE 2/11/93
HB 486, 431

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/11/93 BILL NO. HB 451 NUMBER _____

MOTION: Table HB 451

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	9	7

EXHIBIT 6

DATE 2/11/93

HB 451

TESTIMONY IN SUPPORT OF HB 431

Linda King, Assistant Administrator
Public Employees' Retirement Division

Current statutes require the retirement division to pay the surviving spouse of a deceased police officer a benefit equal to one-half the member's final salary. If a member retired with a benefit which was more than 50% of salary, his widow's benefit would be reduced upon his death. To date, there have been six widows of retired police officers whose benefits were reduced upon the death of their husbands.

The Public Employees' Retirement Board supports this legislation which would continue paying benefits to survivors of retired police officers at the same level as was paid to their retired spouses.

The level of benefits proposed here is equitable and reasonable -- and represents the same level which is already paid to the surviving spouses of highway patrol officers' and firefighters'.

We do not know the reason for the current statutory difference between the benefits paid to retired police officers and their survivors -- perhaps it was accidental.

While the difference may have been an unintentional, it has decreased the overall cost of the system. Increasing those benefits now will require some increased funding to pay for the enhancements.

The bill currently provides for sufficient funding to come from the insurance premium tax fund. If the Legislature determines the state can not afford to make increased contributions to this retirement system, the Board requests that this bill be passed with the required funding paid by increasing the contributions paid by active members and/or their employers.

EXHIBIT 7
DATE 2/11/93
HB 431

Mr. Chairman, members of the State Administration Committee - I am Vance Bertelsen, today I am representing Montana Legacy Legislature - a group of senior citizens who meet semi-annually to consider legislative changes they consider important - Among these ~~top~~ priority pieces of legislation is S.B. 131 - annual legislative sessions.

THE CASE FOR ANNUAL SESSIONS

Montana's legacy Legislature believes it is time that Montana join the Majority of states which have annual sessions.

Montana is one of only seven states which do not hold annual legislative sessions. Montana should join the 20th ^{or at least the 21st} century.

Montana Legacy Legislature is asking the state legislature to pass legislation calling for a state referendum on whether to change our 90 day biennial legislative session to annual sessions to a total of not more than 90 days. The legislature would be required to apportion the allowable legislative days between sessions and ~~provide~~ the parameters of each session. This referendum should be placed on the ballot in the general election of November, 1994. This amendment would be effective January 1, 1996.

Since Montana operates on an annual budget, annual sessions would provide for much better coordination and control of state budgets. They would also provide greater ability to coordinate with federally funded programs and federal grants which often become available on an annual basis.

Certainly the process of holding special sessions to deal with emergencies is not conducive to carefully considered legislation. Special sessions do not provide an opportunity for full citizen participation in the legislative process.

EXHIBIT 8
DATE 2/11/93
HB SB 131

Special sessions are also a costly legislative procedure, since 1981 Montana has spent 2.⁹ million on special sessions, of that amount \$~~501,107~~^{876,568} was spent during the last 3 years. We believe that a majority of these funds could be saved by annual sessions.

Special sessions are also very disruptive to the lives of legislators, often coming at a very inconvenient and unplanned time in their lives. Many people who would like to serve in the legislature could more easily serve if they were required to be away from their business for only the shorter annual session. We feel this could easily increase the opportunity for many to serve in the legislature. New legislators would also become better versed in the legislative process and by the second annual session be able to more fully participate in the legislative process.

In 1982-83 practically every major newspaper in Montana carried editorials in support of annual sessions. Those reasons are even more valid today. As the complexities of state government continue to grow so does the need for annual sessions. Establishing annual sessions is a step in the right direction which Montana should take now.

MONTANA LEGACY LEGISLATURE, INC.

Contract: Verner Bertelsen, Lobbyist
1800 Winne Avenue
Helena, MT 59601

Telephone: 442-2279

Amendments to House Bill No. 431
First Reading Copy

Requested by Rep. Sheila Rice
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
February 11, 1993

1. Title, lines 6 and 7.

Strike: "THE" on line 6 through "TAXES" on line 7

Insert: "EMPLOYER AND EMPLOYEE CONTRIBUTIONS"

2. Title, line 8.

Strike: "19-9-702"

Insert: "19-9-601, 19-9-703"

3. Page 1, line 13 through page 2 line 6.

Strike: Section 1 in its entirety

Insert:

"Section 1. Section 19-9-601, "MCA, is amended to read:

"19-9-601. **Member contributions.** (1) The normal contribution of each active member is ~~6%~~ 6.13% of ~~his the~~ member's monthly compensation. In the case of a member first employed by an employer as a police officer after June 30, 1975, the contribution is ~~7.2%~~ 7.33% of ~~his the member's~~ the member's monthly compensation. In the case of a member first employed by an employer as a police officer after June 30, 1979, the contribution is ~~8.7%~~ 8.83% of ~~his the member's~~ the member's monthly compensation. Compensation excludes overtime payments, holiday payments, shift differential payments, compensation time payments, and payments in lieu of sick leave and annual leave, for ~~his~~ services as a police officer.

(2) Each employer, pursuant to section 414(h) (2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions which would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages as defined in 19-1-102 and ~~his the member's~~ the member's monthly compensation as defined in 19-9-104. The employer shall deduct

from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 2. Section 19-9-703, MCA, is amended to read:

"19-9-703. **Employer contribution.** Each employer shall make its contribution on behalf of members through the city treasurer or other appropriate official out of ~~moneys~~ money available to the city for such purpose. The employer's contribution, which must be paid monthly to the administrator, is--

~~(1) 14.04% of the total monthly compensation paid to all active members during the preceding month before July 1, 1985;~~

~~(2) 13.02% of the total monthly compensation paid to all active members during the preceding month from July 1, 1985, through June 30, 1991; and~~

~~(3) 13.92%~~ 14.05% of the total monthly compensation paid to all active members during the preceding month after July 1, ~~1991~~ 1993."

Renumber: subsequent sections

4. Page 4, line 15 through page 5, line 10.

Strike: the second "and" on page 4, line 15 through "1993" on page 5, line 10

Insert: ", then the employee contributions shown in [section 1 of this act], amending 19-9-601, must be increased by 0.31% and the employer contribution shown in [section 2 of this act], amending 19-9-703, must be increased by 0.31%"

5. Page 5, line 12.

Strike: "2"

Insert: "3"

EXHIBIT 10

DATE 2/11/93

HB 431

Feb. 11, 1993

I give my protest to Rep. Davis on
all bills, amendments and actions before
the St. Admin. Committee this day.

Dore Delander
Dist # 20

HB 431 / Amount \$400
HB 431 / Amount \$400

2-11-93

I leave my proxy for
all bills, tabling, motions to
Carolyn Saperas or Sheila Rice,
Beverly Bamberg

Give my proxy to
Sheila Rice on all
Values and bills etc -

2/11/93
C. Saperas

EXHIBIT 11
DATE 2/11/93
HB 431

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration

COMMITTEE

BILL NO. HB 431

DATE 2/11/93

SPONSOR(S) Rep. Strizich

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill WARE, Chief	Mt. Assn. of Chiefs of Police	✓	
MARK LERUM, Capt.	MT Assoc of Chiefs of Police	✓	
Jim BENKOFER	MT Assoc of Chief's of Police	✓	
Bill STEELE	MT RETIRED Police Ass'n	✓	
CHARLES BICSAK	" " " "	✓	
Dave Ashley	Dept of Administration		✓
John A. Hanger	Teamster Union		
Linda King	PERS	✓	
MARK CRESS	PERS	✓	
George Haglerman	AFSCME	✓	
Paul Williams	Montana Police Protective Assn	✓	
Clayton Jones	"	"	
Troy McGee	Montana Police Protective Assn	✓	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration

COMMITTEE

BILL NO. HB 430

DATE 2/11/93

SPONSOR(S) Rep. Strizich

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
HEARN ERICKSON	MT State Firemans Assoc	✓	
BILL WARE, Chief	Mt. Asso. of Chiefs of Police	✓	
MARK LERUM, ^{Capt.} Asst.	MT. Assoc. of Chiefs of Police	✓	
Troy McGehee, Capt.	Montana Police Protective Assoc.	✓	
Jim OBERLOFER	MONTANA CHIEF'S OF POLICE	✓	
Dave Ashley	Dept. of Administration		✓
John A. Hanger	Teamsters Union	✓	
George Kapurman	AFSCME	✓	
Jimmy Williams	Montana Police Protective Assn.	✓	
Alfred Jones	" "	✓	
Scott A. Arnold	AFSCME	✓	
Bill Steele	MT RETIRED POLICE ASSN	✓	

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