

MINUTES

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

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on March 11, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

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

Committee Business Summary:

Hearing: SB 229, SB 124, SB 238
Executive Action: SB 15, SB 19, SB 37

HEARING ON SB 229

Opening Statement by Sponsor:

SEN. BARRY STANG, Senate District 26, St. Regis, introduced SB 229 as an act defining and authorizing poker runs; exempting poker runs held by certain nonprofit organizations from certain regulations.

Proponents' Testimony:

Stan Hooverstall, Montana Snowmobile Association, said that poker runs had been operating illegally up until a year ago, and since then legislators have drafted this bill. They are primarily used by non-profit organizations as charity fund raisers.

Janet Jessup, Department of Justice, was available for questions.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. VOGEL asked SEN. STANG whether poker runs are in current law, and whether they are controlled. SEN. STANG replied that poker runs are not defined. It was determined that these poker runs were actually a card game, and there had to be a licensed dealership to perform the games. Under the original law the players weren't allowed to keep any of the proceeds from the games. The non-profit organization operating the poker runs would keep the profits for their organization.

Closing by Sponsor:

REP. STANG said SB 229 is not an expansion of gambling laws; it gives non-profit organizations a chance to operate under the same rules as current legalized gambling.

HEARING ON SB 124**Opening Statement by Sponsor:**

SEN. FRED VAN VALKENBURG, Senate District 30, Missoula, said that SB 124 is unique in the context of most bill issues because it does not add anything to the codes; in fact, it subtracts unnecessary and outdated codes. This is a repealer of a very old law that dates back to the late 19th century when the state first got started. This bill takes out the codes and procedures that finders of lost property must go through in order to sell and dispose of that property. These procedures involved affidavits, appointment of appraisers, and publication of notices. SEN. VAN VALKENBURG thinks these procedures are no longer necessary.

Proponents' Testimony:

Adriene Koelt-Cronn, City of Missoula, said she is in charge of

lost property in Missoula. There is a huge inventory of lost bicycles in Missoula, for example, and the success rate for returning the bicycles is very good. The city holds the bikes for 60 days; if they are not claimed, they are auctioned off.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. TASH asked if these procedures apply to all lost properties. SEN. VAN VALKENBURG said it applies to any property for which someone cannot identify the owner.

Closing by Sponsor: None

HEARING ON SB 238

Opening Statement by Sponsor:

SEN. BRUCE CRIPPEN, Senate District 45, Billings, said that SB 238 would modify existing laws pertaining to warrant and bond requirements for obtaining possible stolen property from a pawnbroker or dealer. SEN. CRIPPEN referred to the new section of the bill which states that a peace officer shall give the pawnbroker or dealer a receipt for any property surrendered by the pawnbroker or dealer.

Proponents' Testimony:

Tom Harrison, Montana Sheriffs and Peace Officers Association (MSPOA), said that MSPOA supports SB 238.

REP. RANDY VOGEL, House District 86, Billings, stated that SB 238 will help recover stolen property from pawnshops.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None.

EXECUTIVE ACTION ON SB 15

Motion: REP. WYATT MOVED SB 15 BE CONCURRED IN.

Motion: REP. RICE moved an amendment regarding election of bargaining remedies. EXHIBIT 1

Discussion:

REP. RICE has come to the conclusion that people need a forum to have their disputes reasonably judged and resolved. For that reason, he offered two amendments. The first amendment basically includes two concepts: 1) The party has to elect a remedy, either binding arbitration or the judicial appeal, and that election is for all parties involved; and 2) there will be only one forum to resolve disputes.

REP. VOGEL distributed documentation that defines collective bargaining. EXHIBIT 2

Vote: REP. RICE'S amendment "providing for an election of remedies" carried unanimously.

Motion: REP. RICE offered an amendment to put an effective date on the bill. EXHIBIT 3

Discussion:

REP. RICE said one argument made by the school boards is that, over a period of years, a lot of districts have declined to negotiate binding arbitration; now the state is going to mandate this. One of the purposes of this amendment is to allow the school boards the opportunity to come to terms with the law and allow some bargaining to go on. REP. RICE would like negotiation to begin July 1, 1996. He asked Mr. MacMaster to incorporate that language into the bill.

Discussion:

REP. MCCULLOCH agreed that July 1st is a good date because that's when most contracts end, but he would rather change the date from 1996 to 1994. Waiting until 1996 will mean that another legislative session will pass, and he wouldn't like to see this law be changed again. Most districts have one-year contracts. There are some that have two, but that's rare. This gives any district a full year's time to set up and come to some agreement on the policies and procedures for arbitration.

REP. RICE said the reason for the amendment is to set up new contracts rather than revising the old contract.

Motion: REP. MCCULLOCH offered a substitute amendment to make the contract effective July 1st, 1994.

CHAIRMAN FAGG is concerned about REP. MCCULLOCH'S amendment. He stated we are taking away something that is negotiated on a local level. He explained that if the employees get collective bargaining or binding arbitration, then they generally give up

something. He is troubled by the fact that the legislature is stepping in and changing the effective date. However, with REP. RICE'S original amendment, this at least, gives them a few contract periods to negotiate a little bit of the terms.

CHAIRMAN FAGG is also concerned because the committee has not put any terms on what the binding arbitration will consist of. At least if it is delayed, it will force the school districts and employees to look at this issue and negotiate some terms for those who don't have it. It still takes away negotiating, but not to such a degree.

Vote: REP. MCCULLOCH'S amendment to make the effective date July 1st, 1994 failed by a vote of 11-7 with CHAIRMAN FAGG, REPS. VOGEL, BIRD, BERGMAN, CLARK, GRIMES, RICE, SAYLES, SMITH, TASH, and WINSLOW voting no.

Motion: REP. WHALEN offered a substitute amendment to have the applicability date apply to the time when current school district contracts would be renewed on a yearly basis.

Discussion:

REP. RICE said 1996 is the next effective date for the legislature to toy with this piece of legislation, and he doesn't want that to happen. He can't see the Governor signing a bill and putting it into effect one session, and the next session signing a bill to take it off. The legislature is taking leverage away from school boards. They used to have the leverage to give them final binding arbitration. All these terms must be negotiated.

REP. WHALEN said that the most practical way to implement this is to let current contracts remain in force with the idea that, as new contracts are negotiated, they're under this law.

Vote: REP. WHALEN'S substitute amendment failed on a 10-8 vote with CHAIRMAN FAGG, REPS. VOGEL, BIRD, BERGMAN, CLARK, GRIMES, RICE, SAYLES, TASH, and WINSLOW voting no.

Vote: REP. RICE'S amendment to put an effective date on the bill carried with a vote of 13-5 with REPS. BROWN, BROOKE, RUSSELL, WHALEN, and WYATT voting no.

Motion/Vote: REP. TOOLE offered an amendment to make the remedy elected by the grieved party binding on the grieved party. Amendment carried unanimously.

REPS. SMITH and TASH spoke against the bill and the amendments. REP. TASH believes school districts themselves should make whatever adjustments needed. He said language should be added to the bill on page 2, line 7 that requires a school to have a grievance procedure. REP. SMITH agreed added further that she is concerned the legislature is working on teachers contracts, when the teachers should be working on their own contracts.

REP. CLARK personally feels this bill doesn't belong in the Judiciary Committee but commends REP. RICE for his improvements on the bill. He also said that school boards believe this is an attempt by the Montana Education Association to take away their role.

Motion: REP. CLARK MOVED SB 15 BE TABLED.

Discussion:

REP. TOOLE stated this is a good bill because arbitration is a reasonable, fast way to handle disputes. This bill offers an absolutely neutral way to settle a dispute by negotiation.

REP. WYATT opposes the table motion. It does not allow people to go to a judge, and she said the committee is comparing arbitration with unions. She said arbitration always puts teachers in a situation of negotiating for money, books, supplies, etc.

Vote: SB 15 BE TABLED FAILED by a vote of 6-12 with CHAIRMAN FAGG, REPS. BROWN, BIRD, BROOKE, MCCULLOCH, RICE, RUSSELL, SMITH, TOOLE, WHALEN, WINSLOW, and WYATT voting no.

Motion/Vote: CHAIRMAN FAGG MOVED SB 15 BE CONCURRED IN AS AMENDED. Motion carried 13-5 with REPS. BERGMAN, CLARK, GRIMES, SAYLES, and TOOLE voting no.

EXECUTIVE ACTION ON SB 19

Motion/Vote: REP. VOGEL MOVED SB 19 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 37

Motion: REP. WYATT MOVED SB 37 BE RECONSIDERED.

Discussion:

REPS. WYATT and WINSLOW requested reconsideration of SB 37 as a result of the murder of the physician in a Florida abortion clinic. This piece of legislation, as currently written, would allow that person to go free. REP. WYATT admitted she is frightened by the action taken by the committee. She doesn't think this bill should have come down to a debate over abortion; once it did, however, REP. WINSLOW believes the law should apply to everyone equally. She also said the thing that was most horrifying to her was the statement from Randall Terr, Head of Operation Rescue. His comment was that the physician should not have been killed, but that it also needed to be recognized that this physician was a "mass murderer." So in essence, what Mr. Terr is saying is, it's okay to murder somebody if they,

themselves, are involved in performing abortions. She strongly urged the committee to reconsider this piece of legislation.

REP. GRIMES reminded the committee that the original intent of the bill was not to condone illegal activities; however, the legislature has to make sure it is not inadvertently restricting legal activity either.

REP. BROWN spoke on a point of information. He agreed with REP. WYATT saying this is a legitimate motion, but he asked the committee to give a show of hands to see if the motion is still a tie vote of 9-9; if it isn't, the committee should vote again.

REP. RICE stated, rather than getting into another debate about the bill, he said there are discussions now to come to an even fairer compromise on this bill. He asked for another day to bring all sides together on this.

Motion: REP. WHALEN MOVED THE COMMITTEE BE ADJOURNED.

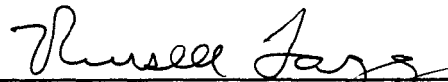
Discussion:

CHAIRMAN FAGG said motion to adjourn is a non-debatable motion which takes precedence over all pending motions. He added that, if REP. WHALEN'S motion passes, the committee will take up REP. WYATT'S motion to reconsider the bill in the March 12 hearing.

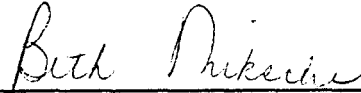
Vote: SB 37 ADJOURNS. Motion carries unanimously. Discussion on SB 37 will continue in March 12 hearing.

ADJOURNMENT

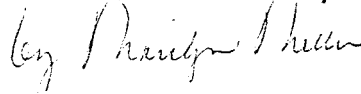
Adjournment: 12:00 noon.



REP. RUSSELL FAGG, Chairman



BETH MIKSCHÉ, Secretary



RF/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

3-11-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993
 wp.rollcall.man
 CS-09

TABLED BILL

House Judiciary
Name of Committee

3-11, 1993
Date

The following bill SP 19

was TABLED, by motion, on 3-11 (18-B), 1993.

[Signature]
For the Committee

[Signature]
For the Chief Clerk

1:12 PM
Time

3/11/93
Date

CS-04
1991

HOUSE STANDING COMMITTEE REPORT

March 12, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 15 (third reading copy -- blue) be concurred in as amended .

Signed: Russ Fagg
Russ Fagg, Chair

And, that such amendments read:

Carried by: Rep. J. Rice

1. Title, line 6.

Following: "AGREEMENTS;"

Insert: "PROVIDING FOR AN ELECTION OF REMEDIES;"

2. Title, line 7.

Following: "AND"

Strike: "AN"

Following: "APPLICABILITY"

Strike: "DATE"

Insert: "DATES"

3. Page 2, line 10.

Following: "AGREEMENTS."

Insert: "The aggrieved party may have the grievance or disputed interpretation of the agreement resolved either by final and binding arbitration or by any other available legal method and forum, but not by both. The remedy elected by the aggrieved party is binding on the aggrieved party, that party's collective bargaining agent, and the employer and is the exclusive method of remedy for resolution of the grievance or disputed interpretation."

4. Page 2, line 14.

Following: "act]"

Insert: ", except that subsection (5) of 39-31-306 applies to agreements for school years that begin on or after July 1, 1996"

-END-

Committee Vote:
Yes 15, No 5.

561617SC.Hpf

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-11-93 BILL NO. SB19 NUMBER 18

MOTION: SB19 Be Tabled carried unanimously

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-1-93 BILL NO. JB 15 NUMBER 18

MOTION: JB 15 Be Tabled Failed 12-6

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair		✓
Rep. Jodi Bird		✓
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	✓
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch		✓
Rep. Jim Rice		✓
Rep. Angela Russell		✓
Rep. Tim Sayles	✓	
Rep. Liz Smith		✓
Rep. Bill Tash	✓	
Rep. Howard Toole		✓
Rep. Tim Whalen		✓
Rep. Karyl Winslow		✓
Rep. Diana Wyatt		✓
	6	12

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-11-93 BILL NO. SB15 NUMBER 18

MOTION: SB15 Be Concurred as amended 13-5

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman		✓
Rep. Vivian Brooke	✓	
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles		✓
Rep. Liz Smith	✓	
Rep. Bill Tash		✓
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	
	13	5

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 3-11-93 BILL NO. JB 15 NUMBER 18

MOTION: Rep. Toole's amendment carried unanimously

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 3-1-93 BILL NO. SB 15 NUMBER 18

MOTION: Rep Rice's Amendment #2 carried 13-5

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair		✓
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke		✓
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell		✓
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen		✓
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt		✓
	13	5

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-11-93 BILL NO. JB 15 NUMBER 18

MOTION: Rep. McCulloch's Amendment #2 Failed 11-7

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair		✓
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird		✓
Rep. Ellen Bergman		✓
Rep. Vivian Brooke	✓	
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch	✓	
Rep. Jim Rice		✓
Rep. Angela Russell	✓	
Rep. Tim Sayles		✓
Rep. Liz Smith		✓
Rep. Bill Tash		✓
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow		✓
Rep. Diana Wyatt	✓	
	7	11

HOUSE OF REPRESENTATIVES

Judiciary COMMITTEE

ROLL CALL VOTE

DATE 3-11-93 BILL NO. SB15 NUMBER 18

MOTION: Rep. Rice's Amendment #1 carried unanimously

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

EXHIBIT 1
DATE 3-11-93
SB 15

Amendments to Senate Bill No. 15
Third Reading Copy

Requested by Rep. Rice
For the Committee on the Judiciary

Prepared by John MacMaster
February 10, 1993

1. Title, line 6.

Following: "AGREEMENTS;"

Insert: "PROVIDING FOR AN ELECTION OF REMEDIES;"

2. Page 2, line 10.

Following: "AGREEMENTS."

Insert: "The aggrieved party may have the grievance or disputed interpretation of the agreement resolved either by final and binding arbitration or by any other available legal method and forum, but not by both. The elected method of remedy is binding on the aggrieved party, that party's collective bargaining agent, and the employer and is the exclusive method of remedy for resolution of the grievance or disputed interpretation."

EXHIBIT 2
DATE 3-11-93
SB 15

1. Every Collective Bargaining Agreement between a Public Employer and an Exclusive Representative shall contain the following grievance procedure.

A. A grievance shall be defined as a written and signed complaint by a public employee alleging a violation of one or more provisions of the existing Collective Bargaining Agreement for his/her bargaining unit. To be valid a grievance must be filed with the Public Employer or its authorized representative during the term of a Collective Bargaining Agreement; it must be filed within fifteen calendar days of the alleged violation; it must specifically state the provision(s) of the existing Collective Bargaining Agreement which are alleged to have been violated; and it must specify the remedy requested.

B. Once the grievance has been filed the grievant's immediate supervisor shall have fifteen calendar days to respond in writing to the employee's grievance.

C. Should the grievant not be satisfied with the immediate supervisor's written response, the grievant may, within fifteen days refer submit the written grievance and the supervisor's response to the Public Employers chief executive officer or authorized designee.

D. The Public Employer's chief executive officer/designee shall have fifteen calendar days to respond in writing to the grievance.

E. Should the grievant not be satisfied with the executive officer/designee's written response, the grievant may, within fifteen days refer submit the written grievance and the written responses to the Public Employer's Board of Trustees/Directors/Commissioners, etc. who shall conduct a hearing to consider the merits of the grievance within forty-five calendar days. Following the hearing the Board of Trustees/Commissioners/Directors, etc. shall respond to the grievance in writing within fifteen calendar days.

F. Should the Exclusive Representative be dissatisfied with the written response of the Board of Trustees/Directors/Commissioners/Regents, etc the Exclusive Representative may, within fifteen calendar days, submit the grievance to the Board of Personnel Appeals who shall assign a Mediator to the dispute. The Mediator shall consult with the parties in an attempt to bring about resolution to the grievance. The Mediator shall not produce any records or testimony nor make any statement with regard to any Mediation conducted by him in any forum or proceeding before any court, board, investigatory body, arbitrator, or factfinder. Nor shall the Mediator publicly make or propose any resolution to the grievance.

G. If the Mediator determines that the grievance is not likely to be resolved the Board of Personnel Appeals shall

provide the parties with a list of five qualified impartial Arbitrators. Should either party be dissatisfied with the list provided, a second list shall be requested. The Board of Personnel Appeals shall not be required to furnish more than three lists for any particular grievance. The Arbitrator shall be selected from the list provided as follows:

1. The Exclusive representative shall strike one name;
2. The public Employer shall strike one name;
3. The Exclusive Representative shall strike a second name;
4. The Public Employer shall strike a second name;
5. The parties shall notify the Board of Personnel Appeals of the remaining name who shall be appointed Arbitrator to hear the grievance.

H. The appointed Arbitrator shall confer with the parties and set a time, date and place for the hearing which shall be conducted in accordance with the Uniform Arbitration Act and the American Arbitration Association Labor Arbitration Rules. At the conclusion of the hearing the parties shall have thirty calendar days to submit post hearing briefs and another twenty calendar days to submit reply briefs.

I. The Arbitrator shall have no authority to add to, subtract from or otherwise amend the parties collective bargaining agreement. The Arbitrator shall have authority only to consider a grievance which arose during the term of a Collective Bargaining Agreement between the Public Employer and the Exclusive Representative. The Arbitrator shall not consider any argument or evidence that the grievant or Exclusive Representative did not submit at the hearing before the Board of Trustees/regents/commissioners.

J. Within sixty days following the submission of the reply briefs the Arbitrator shall render a decision based specifically and solely upon the specific provisions of the parties' existing and current Collective Bargaining agreement. The Arbitrators award shall be enforced pursuant to the Uniform Arbitration Act.

K. The Arbitrators fee, expenses and other costs related to the arbitration of any grievance shall be shared equally by the parties and the Board of Personnel Appeals.

L. Once a matter has been submitted to the foregoing grievance procedure the aggrieved employee(s) and the Exclusive Representative waive any right to pursue any action or complaint involving the same facts or circumstances before any county, state or federal agency, tribunal, court or other forum in which relieve may be sought or granted. Once the grievant or the exclusive representative files any complaint, appeal or other action with any county, state or federal agency, court, tribunal or other forum in which relieve may be granted all rights to file or pursue a grievance under this section shall be forever waived.

Amendments to Senate Bill No. 15
Third Reading Copy

Requested by Rep. Rice
For the Committee on the Judiciary

Prepared by John MacMaster
March 9, 1993

1. Title, line 7.

Following: "AND"

Strike: "AN"

Following: "APPLICABILITY"

Strike: "DATE"

Insert: "DATES"

2. Page 2, line 14.

Following: "act]"

Insert: ", except that subsection (5) of 39-31-306 applies to
executed agreements for school years after the school year
that ~~begins in the fall of 1996~~"

beginning July 1, 1996 (McCulloch)

