

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By REP. DICK SIMPKINS, CHAIRMAN, on Thursday,
December 16, 1993, at 9:30 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chairman (R)
Rep. Wilbur Spring, Vice Chairman (R)
Rep. Ervin Davis, Vice Chairman (D)
Rep. Beverly Barnhart (D)
Rep. Pat Galvin (D)
Rep. Bob Gervais (D)
Rep. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. 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:

Members Absent:

Staff Present: Sheri Heffelfinger, Legislative Council
Gayleen Strachan, Committee Secretary

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

Committee Business Summary:

Hearing: HB 38, HB 45
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HEARING ON SENATE BILL 38

Opening Statement by Sponsor:

SEN. HALLIGAN, Senate District 29, said SB38 is an attempt to

provide ad hoc supplemental payments to state retirees after a November 23, 1993 decision by the Montana Supreme Court that declared the benefit provision unconstitutional because it discriminates against federal retirees based on their source of income. Four years ago several states had to deal with the issue of treating retirees uniformly. At that time it was decided to exempt \$3,600 dollars of retirement income for all retirees and phase out the exemption over \$30,000. As part of the bill a 2.5 percent benefit increase was given to Montana state retirees. The court declared the provision unconstitutional and state employees are now being taxed on that retirement provision. While a 2.5 percent provision didn't give everyone a dollar for dollar reimbursement for the taxes they would be paying, it was a way of providing some benefits since the law was being changed after up to 50 years in which their retirement was not taxed.

SEN. HALLIGAN stated that, as we attempt to deal with the 2.5 percent that was declared unconstitutional, it is important not to have any impact on this biennium. He asked that as the bill is drafted, the 1994 payment that normally would be made of \$4 million is eliminated. The 1995 payment under the legislation with the proposed amendments will not be made until the next biennium, so the 1995 legislature will have a chance to come back and address that issue. SB38 buys time to address the issue by the end of the next session before a payment is made. **SEN.**

HALLIGAN distributed a copy of proposed amendments to SB38.

EXHIBIT 1 He stated that SB38 will not have any impact on this biennium and the issue can be looked at during the next legislative session after the administration decides how they want to handle this issue.

Proponents' Testimony:

Lois Menzies, Director, Department of Administration, appeared on behalf of the administration in support of SB38. **Ms. Menzies** stated that SB38 reiterates the commitment made to state and local government retirees. The proposed amendments insure that there will be no fiscal impact this biennium. In addition, before the 1995 legislative session the Department of Administration will work with the legislative committee, retirement system, retiree association, the retirement board, the budget office and any other interested persons to develop a more permanent and more cost effective approach for adjusting post retirement benefits. **Ms. Menzies** said that if the attempt to reach a consensus in this area fails, this bill will serve as a safety net for retirees.

John Denherder, President, Association of Montana Retired Public Employees, Public Employee Prevention Security Coalition, handed out a reporting and payment schedule for SB38 **EXHIBIT 2** and a statement on SB38 from the Association of Montana Retired Public Employees **EXHIBIT 3**. **Mr. Denherder** stated that AMPRE supports SB38 because this bill is essential in order to maintain a 50-year commitment the state has made to its public employees and to the public employees of cities, towns and county governments,

teachers and other school district employees. He said the Association of Montana Retired Public Employees strongly urges the passage of this bill.

Tom Bilodeau, Montana Education Association, stated that the state of Montana made a commitment to its own employees 50 years ago to tax-free benefits. As recognized by the 1991 legislature, that promise was broken and replaced by what was called a new promise for those employees. We are here two years later talking about another new promise and essentially abandoning the promise that was made two years ago. Imposing a tax effectively diminish the value of the benefits. If we are now talking about forcing public employees to accept the cost of inflation and then on top of it adversely impact the purchasing power of their benefits, public employees are left little to search for in terms of a meaningful benefit. **Mr. Bilodeau** stated that the Public Employees Pension Security Coalition will work with the Governor's Office to find a way to get a guaranteed annual benefit adjustment made available to all TRS and PERS benefit receivers. He asked that the bill be passed.

John Malee, Montana Federation of Teachers, Montana Federation of Public Employees, Public Employee Security Coalition, testified as a proponent to SB38.

Alve Thomas, Retired Teachers Association, said that he spent 40 years in Montana education retiring in 1981. The actual take home check he receives from his retirement now is smaller than it was the first year after he retired. **Mr. Thomas** asked that this bill be supported.

David Senn, Executive Director, Teachers Retirement System, stated that the Teachers Retirement Board supports SB38. The board has worked with the sponsor and with organizations that helped draft this bill.

Jack Cohn, Public Employee Security Coalition, Montana Retired Teachers and Schools Personnel, said in the last 17 years most of the federal government retirees have gotten COLAs of over 130 percent while a retired teacher only received about 18.2 percent in that same period of time.

Linda King, Administrator, Public Employees' Retirement Division, stated that the amendments to SB38 add the appropriations necessary to pay this benefit. Due to the rush of the session an appropriations bill was introduced in the Senate which cannot occur. The Senate had to strip the appropriations and the amendments not only clarify the time period during which these adjustments are made but also add back the statutory appropriations. There will be no fiscal impact of this bill until the next biennium.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. WALLIN asked whether people not on a public retirement would be given a tax rebate. **SEN. HALLIGAN** replied that it had been considered but there were too many variables and not enough time.

REP. MOLNAR stated that we are not helping anybody with this bill and the next legislature will certainly look at this. He questioned why we are even looking at this bill. **SEN. HALLIGAN** replied that if we don't pass this bill and the court reverses itself \$4 million will be owed this year and \$4 million dollars next year.

CHAIRMAN SIMPKINS stated that this bill is no longer an ad hoc appropriation and the title ad hoc should be taken from the bill. **Ms. King** said ad hoc means that it is not pre-funded and is made on a one time basis contingent on the funding being available from the funding mechanism identified. In this case with the amendment it would be would be statutory appropriations. It is done without pre-funding; with the funding mechanism identified; it's a once a year lump sum payment, which the legislature can stop. Therefore, it is ad hoc.

CHAIRMAN SIMPKINS asked if it would take long to come up with a good COLA plan for most retirement programs. **Ms. King** stated that a COLA plan would be an important component of putting together a guaranteed post retirement increase. A permanent adjustment is an important funding mechanism and it is the administrations intent to put together such a permanent increase and committing a certain amount of funding along with employee and employer funding.

Closing by Sponsor:

SEN. HALLIGAN stated that the Legislative Auditor has taken a look at this and the amendments are necessary to make sure that there is no commitment in this biennium at all. **SEN. HALLIGAN** asked that the committee resist allowing the bill to go back to the Appropriations Committee. He stated that the appropriations have been taken out of the bill.

HEARING ON SENATE BILL 45**Opening Statement by Sponsor:**

SEN. FRED VAN VALKENBURG, Senate District 30, stated that this bill would provide for a special election on Initiative Referendum 112 in June 1994. The election is now scheduled for November of 1994. The initiative calls for the repeal of HB671 as passed in the 1993 regular legislative session. **SEN. VAN VALKENBURG** stated that he introduced this bill because it is in the best interest for the citizens of Montana to resolve this

issue as soon as reasonably practical. Based on the turnout of public involvement in the special election held this past June on the issue of the general sales tax, Montanans can be very highly motivated to participate in a special election. We can without a doubt receive a clear mandate from the people of this state as to their desires. There is no particular advantage to anyone by changing this date to an earlier election. What it does do is provide individual taxpayers in the state of Montana with a much greater certainty as to their tax liability as they make decisions regarding investments; the need to have withholding made from their income; decisions for estimated tax payments, all of those very important decisions that will linger far too long into the year if we wait and have that election in November. In addition it provides the people of Montana the certainty of resolving this issue as soon as reasonably practical so that Montanans can really face up to the issues as we step forward into the 1995 legislative session. **SEN. VAN VALKENBURG** said that by changing the date of the election to June, any costs involved by virtue of having the election at that date are minimized. There is a cost of approximately \$115,000 to hold this election in June. That cost comes about by virtue of the need to print and distribute a voter information pamphlet that would provide the voters of Montana with the information necessary to make a decision on Initiative Referendum 112. All costs otherwise associated with having a special election are eliminated because the election will be held anyway. It will be an election of considerable consequence whether this bill is passed or not because it will involve the primary election for all offices up for election next year. **SEN. VAN VALKENBURG** stated that this bill is an opportunity to do our very best to solve the issues facing the State.

Proponents' Testimony:

Scott St. Arnauld, American Federation of State, County and Municipal Employees, stated that this legislation is good for families because they determine what their tax liability is early on in the process. It's also good for the Governor because he can prepare his budget for 1995 early enough to know what is happening; early enough so he doesn't have to prepare two budgets. **Mr. St. Arnauld** stated that people didn't sign the petition to have an election in November; they signed the petition to have an opportunity to vote.

Tom Bilodeau, Research Director, Montana Education Association, said this is a bill of clarity and honesty. By moving this election to June the opportunity will be given to the Montana public to review honest, clear and correct data about the tax situation of this state. Montanans will be allowed to focus on that data and make important decisions about where we go from here. If the elections are left until November, the importance of this issue will be confused and diminished. It is important to have this election in June and with the result in hand begin to draw up budgets for the coming biennium to be discussed by

candidates for the legislature and others as they face the Fall general election.

John Malee, Montana Federation of Teachers, Montana Federation of State Employees, testified that he strongly supports SB45.

Harley Warner, Catholic Conference, stated that he is aware of the agonies the taxpayers go through when their tax liability per year is determined as late as November. **Mr. Warner** said that for him personally whatever way the election goes can make a large difference as far as the state estimated tax. The budget process that the state of Montana goes through is a long, agonizing process; without knowing the outcome of the referendum, educated decisions as to what should be done with the state budget will be delayed until next fall. The people of Montana need to know at what level they will pay taxes and they should not be surprised in November of 1994.

Gordon Morris, Director, Association of Counties, stated that, from the standpoint of wanting to have the issue clarified, the best opportunity to do that would be at the primary election because the general election is going to be an extremely long ballot.

Cristina Medina, Montana Low Income Coalition, said that she is in favor of SB45 because the group of people she represents need to know the outcome of the referendum. **Ms. Medina** asked for support for SB45 so there will be an opportunity to educate the rest of Montana. She said it has been very difficult to tell people what is going to happen as a result of the cuts that have already been made. **Ms. Medina** said this bill is needed so the low income population can have a voice in what is happening.

Chuck Kinsey, Montana Low Income Coalition, stated that it is time to get this referendum out of the way and find out whether the people of Montana no longer care for their schools, the poor, and people who are unable to care for themselves. **Mr. Kinsey** urged the committee members to support SB45.

Darrell Holzer, Montana State AFL-CIO, stated that the purpose of the petition was to allow citizens to make the final determination. This proposal will not deviate from that. If SB45 is passed this issue can be dealt with in a more expeditious manner and the future of Montana can be more clearly planned for.

Ed Caplis, Director, Montana Senior Citizens Association, testified as a proponent to SB45.

Opponents' Testimony:

John Richardson, United We Stand America, stated that the major problem with trying to move to an earlier election is that it will cost the citizens \$115,000. He stated that Montana does not have a large enough tax base to support all the programs that

everyone needs. **Mr. Richardson** would like legislation that would help businesses grow and function then more people could be employees and there wouldn't be battles between the parties about when to hold elections. There would be enough people working in Montana to pay the bills for these programs. **Mr. Richardson** is against moving the voting date up because we already have a tax system in place and the petition specifically states that the election will be November 8, 1994. Moving the date up will cost more and the purpose of the special session is to save the taxpayers money.

Gary Hancock, testified that he is a disabled veteran and he knows what it means to be sick and down and out. **Mr. Hancock** stated that people need to be independent and stand on their own feet. Ninety thousand Montanans signed the petition. He said these people are very unhappy about what government has been doing and if SB45 is passed it will be seen by the people as disloyalty.

Chet Drener testified in opposition to SB45.

Joe Moran, Montanans for Better Government, United We Stand of Montana, United We Stand America, stated that he is against pushing the date up for a final vote on this initiative. He stated that almost 25 percent of registered voters signed the petition. This petition has one date on it and that date is November 8, 1994. **Mr. Moran** said the vote should take place during the general election because there will be a larger number of voters participating in the election.

John Denson, Director, United We Stand, and Charles Winderl, United We Stand, testified in opposition to SB45.

Questions From Committee Members and Responses:

REP. GALVIN asked whether the voters who didn't sign the petition were being heard regarding the voting date. **Mr. Denson** replied that those people will be able to voice their feelings when the vote takes place. **REP. GALVIN** asked if there was a place on the petition for people who did not want to sign the petition. **Mr. Denson** answered that no, there was not.

REP. ROSE questioned the cost involved if the vote does take place in June. **REP. VAN VALKENBURG** replied that the counties are holding an election on this date anyway; therefore, all the normal costs associated with holding an election will already be incurred. The only additional cost will be the cost of printing one more spot on the ballot for an additional item.

REP. SQUIRES questioned whether the people who participated in the process of collecting signatures for the petition went through the whole issue and made sure that the date was specific to each individual signing the petition. **Mr. Denson** responded that the instructions were to make sure that the people read

through the initiative; he cannot speak for everyone who collected signatures.

Closing by Sponsor:

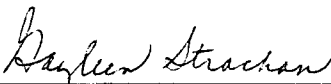
SEN. VAN VALKENBURG stated that the constitution provides the people with the opportunity to petition the government for a referendum on any act passed by the legislature by virtue of the fact that 15 percent of the registered voters in more than half the legislative districts sign the petitions to suspend the operation of that law. It then provides that an election will be held on that referendum in the next general election unless the legislature orders a special election on the issue. **SEN. VAN VALKENBURG** said the people who gathered signatures were forced by virtue of the constitution to state in the petition that the election would be held on November 8, 1994. That is what the petition gatherers had to do in order to get it approved by the Attorney General and the Secretary of State. **SEN. VAN VALKENBURG** pointed out that Professor Rob Natelson has said that he fully understood and told petition gatherers that the legislature could order an earlier election than November 8, 1994. Professor Natelson has said he does not object to moving this election to June of this year.

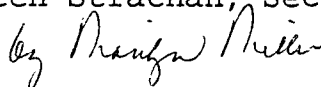
ADJOURNMENT

Adjournment: 11:15 a.m.



REP. DICK SIMPKINS, Chairman



Gayleen Strachan, Secretary


DS/gs

Amendments to Senate Bill No. 38
Third Reading Copy (Blue)

Requested by Senator Halligan
For the Committee on State Administration

Prepared by Valencia Lane
December 14, 1993

1. Title, line 10.
Following: "MCA;"
Insert: "PROVIDING A STATUTORY APPROPRIATION FOR THE AD HOC
SUPPLEMENTAL PAYMENTS; AMENDING SECTION 17-7-502, MCA;"
2. Page 1, line 20.
Strike: "JUNE 1"
Insert: "September 1, 1995, and September 1"
Following: "year"
Insert: "thereafter"
3. Page 1, lines 23 and 24.
Following: "the" on line 23
Strike: remainder of line 23 through "year" on line 24
Insert: "immediately preceding period of August 1 through July
31"
4. Page 1, line 25.
Strike: "or before July 1"
Insert: "September 15, 1995, and September 15"
Following: "year"
Insert: "thereafter"
5. Page 2, line 3.
Following: "systems"
Strike: "during the prior calendar year"
Insert: ", as certified under subsection (2),"
6. Page 2, line 6.
Following: "~~appropriation~~"
Insert: "statutory appropriation --"
7. Page 2, line 10.
Strike: "July"
Insert: "September"
8. Page 2, line 13.
Following: "appropriated"
Insert: "pursuant to 17-7-502 and subsection (4) of this section"
9. Page 2, line 18.
Strike: "July 31"
Insert: "September 30, 1995, and September 30"
Following: "year"
Insert: "thereafter"

10. Page 2, line 21.

Following: "the"

Strike: "prior calendar year"

Insert: "certification period referred to in [section 1]"

11. Page 3, line 6.

Following: line 5

Insert: "(4) (a) The money transferred by the state treasurer under [section 1] is statutorily appropriated, as provided in 17-7-502, to the board for ad hoc supplemental payments under this section to eligible benefit recipients. Any balance remaining must be returned to the state treasurer by October 15.

(b) The board shall distribute the ad hoc supplemental payments in lump-sum form to eligible benefit recipients, along with payment of their normal monthly benefits."

12. Page 3, line 12.

Strike: "JUNE 1"

Insert: "September 1, 1995, and September 1"

Following: "year"

Insert: "thereafter"

13. Page 3, line 15.

Following: "the"

Strike: "prior calendar year"

Insert: "immediately preceding period of August 1 through July 31"

14. Page 3, line 16.

Strike: "or before July 1"

Insert: "September 15, 1995, and September 15"

Following: "year"

Insert: "thereafter"

15. Page 3, line 19.

Following: "system"

Strike: "during the prior calendar year"

Insert: ", as certified under subsection (2),"

16. Page 3, line 25.

Following: "~~appropriation~~"

Strike: "statutory appropriation --"

17. Page 4, line 4.

Strike: "July"

Insert: "September"

18. Page 4, line 6.

Following: "appropriated"

Strike: "pursuant to 17-7-502 and subsection (4) of this section"

19. Page 4, line 10.

Strike: "July 31"

Insert: "September 30, 1995, and September 30"

Following: "year"
Insert: "thereafter"

20. Page 4, line 13.

Following: "the"

Strike: "prior calendar year"

Insert: "certification period referred to in [section 3]"

21. Page 4, line 23.

Following: line 22

Insert: "(4) (a) The money transferred by the state treasurer under [section 3] is statutorily appropriated, as provided in 17-7-502, to the retirement board for ad hoc supplemental payments under this section to eligible benefit recipients. Any balance remaining must be returned to the state treasurer by October 15.

(b) The board shall distribute the ad hoc supplemental payments in lump-sum form to eligible benefit recipients, along with payment of their normal monthly benefits."

22. Page 6, line 22.

Following: line 21

Insert: "Section 5. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; [section 2]; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; [section 2]; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; [section 4]; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-2-707; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the

principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)""

Renumber: subsequent sections

Senate Bill 38 - Reporting and Payment Schedule

1. By September 1: Teacher's Retirement Board and Public Employee Board reports to treasurer the amount of benefits paid from August 1 through July 31 of each year.
2. By September 15: Treasurer transfers to each Board 2 1/2% of the benefits paid from August 1 through July 31.
3. By September 30: Retirement Boards make benefit payments to the retirees.



Association of Montana Retired Public Employees

Post Office Box 4721
Helena, Montana
59604

DATE 12-16-93
HB SB 38
A non-profit
corporation
of P.E.R.S. Retirees
for P.E.R.S. Retirees

AMRPE STATEMENT ON SENATE BILL 38

AMRPE supports SB 38 because this legislation is essential in order to maintain a 50-year commitment the state has made to its employees and to the employees of city and county governments, teachers and other school district employees. That commitment, made in the 1930s to the teachers and the 1940s to the rest of us, was that the state would supplement the pensions of persons retired in the TRS and PERS systems with some general fund monies. The mechanism chosen to do this was to exempt these pensions from state income tax. The intent was two-fold. First, was to offer an additional inducement for employees to stay with the state and local governments rather than accepting opportunities to go to higher paying federal jobs, which of course, also offered higher retirement benefits. Second, the income-tax-exemption method of giving this benefit was intended to be an inducement to employees in the PERS and TRS systems to continue to reside in Montana after retirement.

When the U.S. Supreme Court ordered, in the Davis decision, that states had to treat their own and federal retirees the same in regard to taxation, Montana decided to remove the tax exemption from its own retirees rather than extend it to the federal people. The 1991 session also decided they should continue to honor the long-term commitment made to their own retirees and that it was only the mechanism of the way the benefit was given that was wrong, not the benefit itself. So, when the session passed SB226, which subjected all retirees' pensions to state income tax, it also increased the PERS and TRS retirees' pensions by a general fund appropriation. This has been referred to as our "Make Whole" provision. It did not, however, make us whole on an individual basis. Those of us in tax brackets higher than 2-1/2 percent got back less than we paid and even those Montana residents who paid no income tax got a 2-1/2 percent payment. And, as the payment itself is also subject to state income tax, the end result is a further reduction in our overall pensions. SB 226 did not give the 2-1/2 percent increase to retirees residing outside of Montana. This was an effort to continue to entice retirees to remain in the state.

Federal retirees immediately challenged this legislation in court. The District Court decided last year that it was valid; however, late last month the Montana Supreme Court, in a split decision, reversed the district court's decision. Their decision seems to criticize mainly two points in its reversal. One is that

the make whole provision goes only to residents of Montana and the second is that the provision of a benefit is mixed up in the same legislation that subjects our pensions to taxation.

SB 38 corrects those two things. The supplemental pension benefit it will provide would go to all members of PERS and TRS regardless of where they reside, and it is a separate piece of legislation that does not refer to taxation.

SB 38 provides a supplemental benefit starting in 1995. Thus, we will miss our 1994 benefit payment. The primary reason for this is we are asking the supreme court to reconsider its decision as there are some points it did not seem to address. SB 38 is not effective until May 1995 so if the Supreme Court reverses itself, the 1995 legislature can repeal this bill. In addition, the next benefit payment to retirees would occur in July 1995. As a result, \$8.1 million are freed for use in this biennium. Some critics of the "Make Whole" provision in SB 226 have brought up the fairness argument which was sometimes used against our original pension exemption from state income tax. They maintain that a state must treat all its retired citizens equally and thus any benefit a state gives its own retirees should be given to all. Our response to this is to ask why only our special retirement benefit should be singled out as being unfair. It is not at all unusual for employers to give special benefits to their own retirees that they are uniquely qualified to give. Many retirees from transportation companies have free travel passes. Telephone and other utility companies give reduced rates for their services to their own retirees for which we all pay. Health insurance companies frequently pay for all or part of their retirees' health insurance premiums. And, the federal government gives its retirees annual cost of living adjustments that are magnificent compared to the ad hoc increases we have received out of our own retirement fund.

Thus, the fairness issue now should not require that one employer, the State of Montana, treat all retirees equally when no other employers are required to do so. Instead, it should require that a commitment by the state to its retirees made a half century ago and reaffirmed in 1991, be fulfilled. SB 38 merely fulfills this commitment. We strongly urge its passage.

MEA-R Newsline

Official Publication of the Montana Education Association Retired Members Program
1232 East Sixth Avenue — Helena, MT 59601 — 1-800-332-2270 or 406-442-4250

October 23, 1991

How does your future look after the new pension tax legislation?

The Montana Legislature — despite vigorous MEA opposition — did enact TRS and PERS public pension taxation last April. Now, it appears that a legal action filed in August by a group of individual pensioners challenging the tax provisions of SB226 as applied to federal service pension recipients might potentially affect both the taxation and benefit adjustment aspects of SB226. No decision from the District Court is anticipated before mid-1992.

While MEA and MEA-R will continue to keep our members informed of developments in the case as they arise, we thought we would refresh everyone's memory on what is at stake. A general description of the tax bill (SB226) prepared by TRS reads:

"Senate Bill 226 provides for the taxation of all pension benefits over \$3,600.00. This exemption will be reduced \$2.00 for each \$1.00 of federal adjusted gross income in excess of \$30,000.00. This bill also provides for a statutory appropriation of 2.5% of total benefits. The TRS board will distribute this appropriation in a lump sum payment in May of each year beginning in 1992. Only retirees who are residents of the State of Montana will be eligible to receive this benefit adjustment. This bill also directs the Revenue Oversight Committee to study the taxation of pension benefits and to report their findings and recommendations to the 53rd Legislature."

The tax impacts of SB226 will only be felt by TRS benefit receivers subject to Montana income taxation law. For those receivers filing Montana tax forms next winter on calendar year 1991 income, SB226 will effectively raise the level of Montana income tax expected of them. The actual increase will vary according to the taxpayer's combined TRS and non-TRS income level. The State of Montana will thus collect these new state revenues during the spring of 1992 based on 1991 taxpayer income.

SB226 also provided a continuing general fund statutory appropriation for increasing TRS and PERS

benefits by an amount equal to 2.5% of the total amount of benefits paid during the prior year. However, this additional 2.5% of system-wide benefit dollars will only be paid to in-state TRS and PERS benefit receivers. Given the current distribution of in-state and out-state TRS benefit receivers, the upward adjustment for in-state TRS benefit receivers is likely to approach +2.9%.

Despite a legal opinion offered by the Montana Legislative Council that this 2.5% is due beginning in June of 1991, the Governor's office has taken the position that SB226 does not mandate, nor will a benefit adjustment be made, until May of 1992. It is anticipated that the adjustment pay-out will take the form of a once a year "13th check."

MEA will continue to watch closely the pension tax case and will participate in the Interim Legislative Committee on Retirement Issues meetings. You can let MEA know what you would like us to emphasize by contacting Jack Johnson, MEA-R Chairman (1-406-259-8578), or Tom Bilodeau, MEA Research & Retirement Issues Director (1-800-332-2270 or 1-406-442-4250).

Your opinions and recommendations will be forwarded to the MEA Retirement Committee for discussion at its November meeting.

Did You Know?

Since 1976, NEA has had more members serving as delegates to the Democratic and Republican conventions than any other membership organization in the country. — NEA Leader's Reference Book

MEA-R

NEWSLINE

1232 East Sixth Avenue • Helena, MT 59601

October 2, 1992

MEA-R Members Walked Laurel Picket Lines

MEA-R members from the area showed their support for Laurel Unified Education Association's strike at the end of August by coming to walk on the picket lines with their colleagues.

Retired teachers and legislators Chet Blaylock and Tom Kilpatrick, both from Laurel, were active in the strike in many ways. Chet and his wife, Millie, visited all the school sites and strike headquarters frequently and were leaders of the big Silent March through town. Kilpatrick, also a leader in the Silent March, opened up his Laurel Movie Haus for meetings and kept the strikers fortified with an endless supply of popcorn and encouragement.

MEA-R State Chair Joe Brookshier and former MEA-R Chair Jack Johnson also visited the picket lines as did Billings area retired members Cleona Green and Bess Franzen. □

State Retirees Feeling Impact Of Pension Tax

As of April, all Montana income tax payers receiving TRS or PERS pensions felt the impact of pension taxation resulting from the 1991 Legislature's enactment of SB226.

The tax impacts of SB226 are felt by TRS/PERS benefit receivers subject to Montana income taxation law. The actual tax increase experienced by these individual pensioners varies according to the taxpayer's combined TRS/PERS and non-TRS/PERS income level. Most pensioners have chosen to have their monthly benefit check reduced to reflect the expected additional income tax liability. Please contact TRS or PERS if you would prefer to pay your estimated additional tax through benefit tax withholding — ask for a "withholding certificate."

SB226 also provided a "benefit adjustment" equal to 2.5% of total benefits paid out by the retirement system in the prior year. However, these dollars are only paid as a benefit adjustment to in-state TRS and PERS benefit receivers. Accordingly, the in-state checks paid in early June allowed something more than +2.5% to be paid to all in-state benefit receivers. For example, given the current distribution of in-state and out-state TRS benefit receivers, the upward adjustment for in-state TRS benefit receivers was 2.98%, or +1.4 million. This amounted to an average \$270 pension taxation adjustment paid to 5,312 of the 7,000+ TRS benefit receivers nationwide.

SB226's benefit adjustment was often characterized by the Legislature as a "make-whole" adjustment intended to offset the impact of taxation. In the course of MEA's opposition to SB226, MEA consistently argued that SB226's benefit adjustment

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As MEA prepares for the 1993 Legislative session, we'd appreciate hearing from you about whether your benefit adjustment was sufficient to pay your additional tax liability.

Send your comments to:

MEA Research
1232 East Sixth Ave.
Helena, MT 59601
1-800-398-0826

Meet Your New MEA-R Chair:

JOE BROOKSHIER



I am privileged to have been elected to serve as your representative to the MEA Board of Directors. I retired from Bridger in 1990 after twenty-seven years of teaching. During that time I served two four-year stints on the board. At the current time, the MEA-R Chair is a non-voting member of the board. One of my goals is to increase our membership to the point where we have a voting member.

Another goal I have is to organize more local units. Our members in Billings broke the ice for us by organizing the first local unit in the state. We need more locals to help make our organization more effective. If you are interested in having a local in your area please let me know so that I can discuss it with you.

Something else we can do is keep in touch with the active locals. We need to let them know we are still members and what our concerns are. We may be able to offer them help to do some of the things they may not have the time or manpower to do.

I recently attended an NEA-R regional conference. NEA-R now has over 100,000 members and has six voting members on the NEA Board of Directors. NEA-R is deeply involved in health care, protection of pension funds, quality education, and organizing state and local retired units. I came away from that meeting realizing that there is still much we can do for our chosen profession.

If you have any questions, comments, or suggestions, my mailing address is Box 31, Bridger, 59014, and my phone number is 662-3496.

I would like to close by thanking Jack Johnson for all that he has done. I have known Jack for almost thirty years and I know the countless number of hours he has spent on behalf of MEA and MEA-R. He has friends in education all across the country. When people at the conferences I have attended find out I am from Montana, someone always asks about him. Thanks again, Jack. □

FACTS ABOUT JOE:

- Attended elementary and high school in Belgrade
- Earned his B.S. and M.Ed. at Montana State University
- Served in the U.S. Army from 1960 to 1963
- Taught 7th and 8th grade math and science at Bridger Elementary School until retirement; coached basketball
- Active in the Lions Club, Masons, Volunteer Fire Department and Little League
- Member MCTM and Montana Coaches Association; 29 year MEA member
- Hobbies include reading, fishing and golf

continued from page 1

was an inadequate "make-whole." In fact, many pensioners would require a +3.5% or more in additional benefits to reimburse them for the additional tax liability resulting from pension taxation. As MEA prepares for the 1993 Legislative session, we'd appreciate hearing from you about whether your benefit adjustment was sufficient to pay your additional tax liability.

Finally, SB226 funds the benefit adjustment by a general fund statutory appropriation. MEA remains concerned about the Legislature's commitment to fund this benefit adjustment from the state's deficit-prone general fund. Working with other public retiree groups, MEA will continue to assure that the Legislature does not look to current retirement assets or future fund contributions to fund the pension taxation adjustment or pay for general state operating costs. □

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SB 38

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Shirley M. Stafford	self (RET. TEACHER)	SB38		X
DICKY STAFFORD	SELF (RET. TEACHER)	SB38		X
Alfred Thomas	Retired Teacher	SB38		X
Tom G. Foley	AFSCME	SB38		X
John DENHERDER	FMRPE & PEPSCO	SB38		X
LOIS MENZIES	ADMINISTRATION	SB38		X
Jack Cohen	Mont. Ret. Teachers & School Personnel	SB38		X
Scott Arnold	AFSCME	SB38		X
Gray Hancock	Myself	SB45	X	
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John Malone	M.F.T			X
Chet Kinney	MLIC			X

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TOM BILODEAU MEA

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JOHN MAZE	AFSCME	SB45		X
CHET BREMER	GELE	45	X	
TOM BLODEAU	MEA	45		X
Angela Gully	SOS	45		

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