

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN ETHEL HARDING**, on January 16, 1995,
at 10:05 AM

ROLL CALL

Members Present:

Sen. Ethel M. Harding, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Mike Foster (R)
Sen. Don Hargrove (R)
Sen. Jeff Weldon (D)

Members Excused: Sen. Bob Pipinich (D) and Sen. Vivian Brooke (D)

Members Absent: None

Staff Present: David Niss, Legislative Council
Gail Moser, Committee Secretary

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

Committee Business Summary:

Hearing: HB22, HB23, HJR5
Executive Action: HB22 BE CONCURRED IN
HB23 BE CONCURRED IN
HJR5 BE CONCURRED IN

{Tape: 1; Side: A; Approx. Counter: 38.5}

HEARING ON HB22

Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, House District No. 68, Missoula, stated she also served in the interim as the Chair of the Administrative Code Committee, and HB22 is a committee bill from the Code Committee to clarify some of the proceedings from that Committee. The Administrative Code Books normally are distributed to the Administrative Code Committee; and any rule that is to be adopted is noticed, amended, and referred to and corrections posted in this book and mailed to agencies who pay for them and who received them. The book is color-coded by category through the

rule-making process. The categories include the posting by the department, the notice, the correction, the amendments, and the final action. The basic part of the bill is on page 2, line 20. "An agency may use an amended proposal notice or the adoption notice to correct deficiencies in statements of reasonable necessity, in citations of authority for rules, and in citations of sections implemented by rules." John McMasters is the staff person for the Code Committee. He receives many phone calls and has to explain the correction process. If the correction process was codified, agencies could look it up themselves and actually realize what they were supposed to do. The purpose of HB22 is to stop the numerous phone calls that agencies make for an explanation of the correction process in rule-making notices. HB22 will provide information to the agencies on how to correct deficiencies in statements of reasonable necessity.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Member and Responses:

SEN. WELDON asked Rep. Squires what other notice is provided by the notice of proposed rule-making and the adoption notice.

REP. SQUIRES stated the notice provides the reader with notice of the rule adoption procedure and the text of the proposed or adopted rule.

SEN. MESAROS asked for identification of the Chapter referred to in the deletion on page 2, line 2, of the definition set forth in Chapter 2-4-102(10). **REP. SQUIRES** asked Mr. Petesch to assist in answering Sen. Mesaros' question. **Mr. Petesch** stated that that provision removes the citation to the definition of policy because the definition of agency policy includes a rule; therefore, it is redundant as used in this sentence.

REP. SQUIRES explained that the Code Committee is composed of four House members and four Senators and is a bi-partisan committee. **REP. SQUIRES** will be asking Sen. Hertel, if HB22 is passed, to carry HB22. He was part of the Code Committee and he understands the need for this clarification so that agencies will know how to operate in regard to the rule-making.

CHAIRMAN HARDING closed the hearing on HB22.

HEARING ON HB23

Opening Statement by Sponsor:

REP. H.S. "Sonny" HANSON, House District 9, Billings, stated HB23 is a Legislative Council bill that will move us into the electronic age. The Council is sending more information on an

electronic medium and needs to make sure they are allowed to charge for that. In paragraph 3, "of all Montana Code Annotated material" is being added. Most everything that can be put on electronic media is being done that way. Once it's in that format, it's much cheaper to sell to the public.

On page 2, line 16, the word "or" is being deleted and on page 2, line 18, the word "and" is being added. **REP. HANSON** handed out a sheet of hourly rates (**EXHIBIT 1**).

REP. HANSON stated that the reason for the change was to require that the agency's costs could not exceed the total of the three categories of costs. HB23 allows us to move into the electronic age and be able to disburse material electronically which will be cheaper in the long run. **REP. HANSON** said that Greg Petesch can also answer specific questions regarding HB23.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. MACK COLE asked Rep. Hanson if the Legislative Council has a complete list of charges for providing printed and/or electronic material. **REP. HANSON** asked Greg Petesch to answer Sen. Cole's question. **Mr. Petesch** explained there are essentially two portions of HB23. The first section deals with the sale of the Montana Code Annotated itself, printed and bound. The Legislative Council also publishes the Code on a compact disc in a CDROM format. HB23 clarifies that the Council can get the same mark-up on the CD that they get on the printed/bound copies of the Code. **Mr. Petesch** explained that in the last session, the Appropriations Committee reduced the General Fund for the Council and told the Council to garner more of their operating costs out of sales to the public, so they changed the mark-up the Council could get on Code. Previously, the Council had to sell to agencies at cost. They now can add five percent to their cost. The mark-up to the general public was changed from 10% to a potential 25%.

Mr. Petesch said that the second half of HB23 does not apply solely to Legislative Council publications; it refers to all state government agencies providing electronic information. HB23 will clarify that when an agency provides this information in an electronic format, it can charge for all costs involved. The Council has a price list for the material it sells. There is not, however, an electronic copy price list other than for the CDROM of the Montana Code itself.

SEN. JEFF WELDON asked Mr. Petesch if the "Montana Code material" included the Montana Code Annotated and the Annotations.

Mr. Petesch said "yes" and explained that the Council also gets requests from agencies for specific portions of material out of

the Montana Code Annotated. These types of requests require electronic manipulation of the database to extract only those portions of information being requested. This would include statute text, annotation material, catch-lines, histories, etc., that are in the Montana Code.

CHAIRMAN HARDING closed the hearing on HB23.

EXECUTIVE ACTION ON HB22

Motion: SEN. WELDON moved that HB22 BE CONCURRED IN.

Discussion: SEN. WELDON said he thinks it makes perfect sense to state in law that notices can be amended rather than using phone calls to explain the process. He said he can't believe it's being done that way now.

Vote: The MOTION CARRIED UNANIMOUSLY on oral vote.
SEN. HERTEL will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB23

Motion/Vote: SEN. MIKE FOSTER moved that HB23 BE CONCURRED IN.
The MOTION CARRIED UNANIMOUSLY on oral vote. SEN. FOSTER will carry the bill on the Senate floor.

HEARING ON HJR5

Opening Statement by Sponsor:

REP. JOHN COBB, House District 50, Augusta, stated that HJR5 is a joint resolution requesting the Governor to ask each of the Executive Branch agencies that have adopted administrative rules to review these rules and try to delete unnecessary provisions by January 1, 1996. He said the purpose of the review would be to decrease the number of pages of the agency's rules by a minimum of 5% with the goal of 10%. REP. COBB explained that this is only a resolution and not a law since the Montana Legislature cannot arbitrarily say wipe out 10% of the rules under the Constitution. Each rule must be removed individually by statute.

REP. COBB said there is an existing law, 2-4-342, which requires each Executive Branch agency to review, at least every two years, their administrative rules to determine if those rules are needed. Basically, agencies are not following this existing law. Rules are often created which may conflict with current rules due to lack of review. A review may also provide some consolidation or clarification of existing rules as well as reducing the overall number of rules.

Proponents' Testimony: David Owen, Montana Chamber of Commerce, expressed appreciation to Rep. Cobb for his focus on the kinds of rules to be kept. Mr. Owen said if there is anything the MT Chamber of Commerce can do to make sure those rules are lean and mean and efficient... Mr. Owen recounted that in three tours of the state, people expressed concern about the number of agency rules. The days of going into business because you wanted to dedicate yourself to your chosen field are gone. If you own that business, most likely, you or a member of your staff is spending full time dealing with employment issues, regulations, rules, and safety. Anything that can be done to make sure rules are efficient and reasonable would be appreciated.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. DON HARGROVE asked Rep. Cobb if there would be a side-effect of this resolution requiring a complete re-publishing that might not otherwise be necessary. REP. COBB answered that there would not be a re-publishing. The only cost would occur if the agency had to pay the Secretary of State to publish those rules that get deleted.

SEN. JEFF WELDON asked Rep. Cobb if he has spoken with the Governor about the resolution and if so, what was the Governor's attitude toward review of the rules. REP. COBB replied that Leo Giacommeto supported HJR5 for the Governor's office when the bill was in the House. SEN. WELDON commented that the necessity and "unnecessity" of rules is subjective. When a rule was adopted, someone, some place, thought it was necessary. REP. COBB used statutes as an example and said that Rep. Ted Shy had wiped out 15-20 pages of statutes that had been on the books for 100 years, i.e., licenses for dance halls; and no Chinese could run a laundromat, for example. SEN. WELDON asked Rep. Cobb what is the process prescribed to repeal a rule. Certainly striking of rules will not be arbitrary, just as making of laws is not arbitrary. REP. COBB stated there is a public process that must be gone through except for those agencies which are not under administrative rules, i.e., the Prisons and Board of Pardons. Those agencies are able to change rules without having a public hearing. To change a rule in the legislature, a bill is drafted describing the specific rule to be changed, if we have constitutional authority to do so.

CHAIRMAN HARDING closed the hearing on HJR5.

Senator Brooke arrived at the Hearing

EXECUTIVE ACTION ON HJR5

Motion/Vote: SEN. KEN MESAROS moved that HJR5 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY on oral vote.

ADJOURNMENT

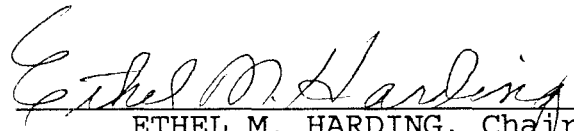
Adjournment: 10:40 AM

After the meeting, **SEN. VIVIAN BROOKE** notified the Secretary that her votes should be counted as follows:

HB22 - BE CONCURRED IN **Aye**
HB23 - BE CONCURRED IN **Aye**

On 01/17/95, **SEN. BOB PIPINICH** notified the Secretary that his votes should be counted as follows:

HB22 - BE CONCURRED IN **Aye**
HB23 - BE CONCURRED IN **Aye**
HJR5 - BE CONCURRED IN **Aye**


ETHEL M. HARDING, Chairman


GAIL MOSER, Secretary

EMH/gem

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE Mon 01-16-95

NAME	PRESENT	ABSENT	EXCUSED
VIVIAN BROOKE			✓
MACK COLE	✓		
MIKE FOSTER	✓		
DON HARGROVE	✓		
BOB PIPINICH			✓
JEFF WELDON			
KEN MESAROS, VICE CHAIRMAN	✓		
ETHEL HARDING, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 17, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 22 (third reading copy -- blue), respectfully report that HB 22 be concurred in.

Signed: Ethel M. Harding
Senator Ethel M. Harding, Chair

OV Amd. Coord.

SA Sec. of Senate

Senator Carrying Bill

141242SC.SPv

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 17, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 23 (third reading copy -- blue), respectfully report that HB 23 be concurred in.

Signed: Ethel M. Harding
Senator Ethel M. Harding, Chair

Q7 Amd. Coord.
SA Sec. of Senate

Senator Carrying Bill

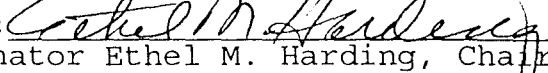
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 17, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HJ 5 (third reading copy -- blue), respectfully report that HJ 5 be concurred in.

Signed: 
Senator Ethel M. Harding, Chair


Amd. Coord.
SA Sec. of Senate

Senator Carrying Bill

141247SC.SPV

EXHIBIT NO.

DATE 01-16-95

BILL NO. HB23

408

GOVERNMENT STRUCTURE AND ADMINISTRATION

2-18-313

(2) The statewide classification pay schedule for fiscal year 1995 is as follows:

Annual Hours — 2080
Pay Matrix — State
Pay Range: Entry Salary to Market Salary

GRADE	ENTRY SALARY	MARKET SALARY
1	8,679	10,210
2	9,349	11,025
3	10,070	11,903
4	10,852	12,858
5	11,727	13,927
6	12,672	15,086
7	13,688	16,334
8	14,836	17,747
9	16,064	19,262
10	17,424	20,942
11	18,904	22,775
12	20,545	24,812
13	22,325	27,027
14	24,295	29,485
15	26,465	32,196
16	28,885	35,226
17	31,585	38,613
18	34,562	42,355
19	37,897	46,557
20	41,618	51,254
21	45,754	56,487
22	50,373	62,343
23	55,584	68,963
24	61,434	76,410
25	67,907	84,673

History: En. 59-918 by Sec. 4, Ch. 563, L. 1977; R.C.M. 1947, 59-918; amd. Sec. 8, Ch. 678, L. 1979; amd. Sec. 5, Ch. 421, L. 1981 (Executive Order No. 7-81); amd. Sec. 2, Ch. 710, L. 1983; amd. Sec. 4, Ch. 740, L. 1985; rep. Sec. 12, Ch. 6, Sp. L. June 1986; re-en. Sec. 11, Ch. 6, Sp. L. June 1986; amd. Sec. 6, Ch. 661, L. 1987; amd. Sec. 6, Ch. 660, L. 1988; amd. Sec. 6, Ch. 720, L. 1991; amd. Sec. 4, Ch. 640, L. 1993.

Compiler's Comments: See 1993 Session Law for the 1992 schedule. See 1993 Session Law for the 1994 schedule. Amendment effective July 1, 1994.

2-18-313. Teachers' pay schedules. (1) (a) The 12-month pay schedule for teachers for fiscal year 1994 and for the first 6 months of fiscal year 1995 is as follows:

Annual Hours — 2080
Term — Twelve Months
Pay Range: Entry Salary to Market Salary

STATE EMPLOYEE CLASSIFICATION, COMPENSATION AND BENEFITS

407

2-18-312

2-18-306. Determination of weekly or hourly pay rate. When the monthly or annual salary rate payable to an officer or employee of the state has been set by law or otherwise, notwithstanding any other provision of law, the weekly or hourly rate of pay shall be determined by dividing the annual salary by 52 weeks or 2,080 hours.

History: En. Sec. 9, Ch. 95, L. 1968; R.C.M. 1947, 25-507.9.

2-18-307. Repealed. Sec. 17, Ch. 678, L. 1979.

History: En. 59-921 by Sec. 7, Ch. 563, L. 1977; R.C.M. 1947, 59-921.

2-18-308 through 2-18-310 reserved.

2-18-311. Repealed. Sec. 11, Ch. 661, L. 1987.

History: En. 59-917 by Sec. 3, Ch. 563, L. 1977; R.C.M. 1947, 59-917; amd. Sec. 7, Ch. 678, L. 1979; amd. Sec. 5, Ch. 421, L. 1981; amd. Sec. 1, Ch. 710, L. 1983; amd. Sec. 3, Ch. 740, L. 1985.

2-18-312. Statewide pay schedules for fiscal years 1994 and 1995. (1) The statewide classification pay schedule for fiscal year 1994 is as follows:

Annual Hours — 2080
Pay Matrix — State
Pay Range: Entry Salary to Market Salary

GRADE	ENTRY SALARY	MARKET SALARY
1	8,679	10,210
2	9,349	11,025
3	10,070	11,903
4	10,852	12,858
5	11,727	13,927
6	12,672	15,086
7	13,688	16,334
8	14,836	17,747
9	16,064	19,262
10	17,424	20,942
11	18,904	22,775
12	20,545	24,812
13	22,325	27,027
14	24,295	29,485
15	26,465	32,196
16	28,885	35,226
17	31,585	38,613
18	34,562	42,355
19	37,897	46,557
20	41,618	51,254
21	45,754	56,487
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DATE Monday 01-16-95

SENATE COMMITTEE ON STATE ADMINISTRATION

BILLS BEING HEARD TODAY: HB22/HB23/~~HB24~~/HJB5



PLEASE PRINT



Check One

Name	Representing	Bill No.	Support	Oppose
Long Pikesik	Leg. Council	23		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY