

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN RICHARD SIMPKINS**, on January 24, 1995, at 9:00 A.M.

ROLL CALL

Members Present:

Rep. Richard D. Simpkins, Chairman (R)
Rep. Matt Denny, Vice Chairman (Majority) (R)
Rep. Dore Schwinden, Vice Chairman (Minority) (D)
Rep. Matt Brainard (R)
Rep. Patrick G. Galvin (D)
Rep. Dick Green (R)
Rep. Antoinette R. Hagener (D)
Rep. Harriet Hayne (R)
Rep. Sam Kitzenberg (R)
Rep. Bonnie Martinez (R)
Rep. William Rehbein, Jr. (R)
Rep. George Heavy Runner (D)
Rep. Susan L. Smith (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Joe Tropila (D)

Members Excused: Rep. Gay Ann Masolo (R)

Members Absent: none

Staff Present: Sheri Heffelfinger, Legislative Council
Christen Vincent, Committee Secretary

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

Committee Business Summary:

Hearing: HB 275, HB 273, HB 298
Executive Action: HB 298 DO PASS
HB 205 DO PASS

{Tape: 1; Side: A; .}

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HEARING ON HB 275Opening Statement by Sponsor:

REP. BILL WISEMAN, HD 41, stated that this bill is essential. They introduced this bill two years ago, but it didn't pass. It would bring the retirees of the state of Montana into the 21st century, and provide electronic deposit of retirement pension checks. It would save the state approximately \$40,000 a year, if passed. He stated one main objection to this bill would be with retirees who may live outside the United States who will have to have a check sent to them. A second would be there are some people in the state of Montana who do not have a checking or savings account that the checks could be deposited into. These people will be able to come to the department and explain their situation and have a check delivered to them instead of having it deposited. He personally has his paychecks deposited for him electronically.

Proponents' Testimony:

David Senn, Teacher's Retirement Board, stated they supported this bill during the special session and they stand in support of the bill this time. They currently have 4,000 recipients a month who will receive paper warrants and would like to encourage them to change this to electronic funds transfer. This is less expensive, they would not have to issue duplicate warrants when something happens. This bill will require some implementation on behalf of the retirement system. He stated they will have to mail forms, as required by this legislation, to individuals in order to get them signed up for electronic funds transfer. He stated they had an amendment to change the implementation date from the first paycheck after June 30, to the first paycheck after January 1, 1996. This will give them about six months to correspond with these people. They will also have to deal with the appeals. He asked the committee to adopt the amendment to change the effective date to January 1. **EXHIBIT 1**

George Bennett, Montana Bankers Association, stated they support the bill but had a proposed amendment. **EXHIBIT 2** He explained when issued a state warrant, a person is given a negotiable instrument. This instrument can be taken and goes through the collection system as a piece of paper. The electronic funds transfer is covered by both state and federal law and regulations. State warrants are drafted by the State Auditor's Office. They are paid by electronic funds transfer from a Helena bank designated by the State Treasurer. This bank pushes the electronic button that makes deposits in over 100 banks in Montana and once the transfer is made out of the state's bank, there is no recourse. They can credit, but they can't debit.

They are asking that the agreement between the beneficiary and where they designate the financial institution that the agreement not place any liability on the financial institution to determine

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if that individual is eligible to receive those benefits. He urged the adoption of the amendment by the committee.

John Cadby, Montana Bankers Association, stated the bank processes electronically hundreds of thousands of deposits into checking and savings accounts. He asked how they would know if someone is deceased or divorced. In accordance with the Automated Clearing House Rules, once someone has received a deposit it is done and the state can't recover the mis-deposited funds. He asked what the bank's recourse would be with electronic funds transfer. He stated there is some recourse by using paper warrants because it is a negotiable instrument. On electronic funds transfer there would be no recovery of it. It is totally impossible for the bank or the credit union to know if that person is deceased. He stated he didn't understand why they would have to be the enforcing arm for the state of Montana. He didn't see why they have to enforce their responsibility to determine if the recipient is alive or dead.

He stated California doesn't require this and they process millions of these deposits. He said the only reason that the social security has a hook is because they tap right into the federal reserve system and they automatically debit the bank's account. The bank has not signed a formal agreement with Social Security that says they will assume liability in the event money is credited to the wrong person.

Opponents' Testimony: None

Informational Testimony:

Tom Crosser, Deputy for Fiscal Control and Management, State Auditor's Office, stated this bill is at their request. This would help their office get the amount of warrants under control. This bill has the potential of reducing the 10% increase in their warrants base and getting their warrants under control. He stated he agreed with **REP. WISEMAN** that this is a step forward in the way they do financial transactions in the state and will save money in the long run. Paper checks are expensive for the state to produce, mail, and track throughout the process. The more they can refer to electronic funds transfer, the more they will save on administrative costs. He asked for the support of the bill.

Linda King, Administrator, Public Employees Retirement Division, stated they are very much in support of this bill. Currently, they have about 8,000 of their retirees on electronic deposit with the remaining 6,100 not using electronic funds transfer. She stated they find the main reason for those people not already on electronic funds transfer is because currently there isn't the money to send notices to people to people every time the benefit amount changes. The savings provided in this bill would allow for them to send out those notices and still save money in their budget. She stated that her people would oppose the proposed

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amendment by the Montana Bankers Association because they have an electronic funds transfer agreement form that says if the bank accepts funds for a person who no longer exists, they will return the money to them. She stated there are some banks that don't want to do that. Without that, their board will not send to those banks. She said there is no reason why they should lose the money and not get a repayment from the bank if they accept money for a dead person. With any federal funds that are electronically transferred, the federal government will take the money back electronically from the bank. She stated she will not send money to any bank that won't guarantee them they will send the money back.

She stated this is what they are asking the committee to do with the proposed amendment. It would not be reasonable and responsible for the board to enter into an agreement with a bank that says they don't have to give back the money if it is sent electronically and the person no longer exists. For those reasons the Public Employees Retirement Division opposed the amendment.

Questions From Committee Members and Responses:

REP. SIMPKINS asked for **Mr. Crosser's** opinion on the Bankers Association's proposed amendment.

Mr. Crosser stated he had not seen the amendment prior to this. Currently they do have about half of the retirement system and over half of the members of the state employees receive their checks by electronic deposits. He stated he didn't know what the provisions are that are currently being used for recovering those funds. If the retirement systems are going to oppose this bill in its entirety, he could see this going in the opposite direction in taking the people who already receive their deposits by electronic funds transfer out of the pipeline.

REP. SIMPKINS wanted his office's position on the proposed amendment for information.

Mr. Crosser stated their position is to reduce the number of written warrants that they issue. In the past, retirement systems have been criticized because of their issuance of payments to the deceased. He stated they are sensitive to the issue. He said he would have to talk to his boss to see what his position on this amendment is, but he stated there have been problems with the audit recommendations. He stated they may be covering themselves for those mandates.

Ms. King clarified they have an electronic funds transfer agreement with the banks they have to sign before they would deposit electronically. She stated they don't require them to be liable in any or all cases. The only time they are liable is if there was an overstatement of money in the account, then they will return the overpayment to them. If that is not sufficient to cover the overpayment, their liability is only to the amounts

they accepted after they learned through their own records that the person is deceased. It does not matter if they are divorced or anything else. The issue is whether the payee they have accepted the electronic funds transfer on is deceased, and they knew about it and continued to accept the funds and did not notify them. She stated they are not talking about being able to take money from the bank that is in the account. Their only liability is if they were notified.

REP. GREEN asked if the institution can notify the bank, why did they issue the bank transfer. **Ms. King** stated there are some times the bank knows and they are not notified. There are some situations where the people don't get around to notifying them and they don't find out until they check against the state and national death records. She stated that can take several months. If a person has not notified them, they are still making transfers to the bank. The bank may know about it. However, if the bank doesn't know about it they are not held liable for the funds. In the agreement, the bank would sign with their division, they would have to notify them of a death.

REP. STOVALL asked if they are dead can they get the payment back. **Ms. King** stated if the bank accepted payment for a deceased person and they later find out the person is dead and there is \$1,000 in the account and the additional account that was accepted was \$500, they could take it out of the account because there was money in the account to take it out. If there was \$500 in the account and the bank had accepted \$1,500 for a deceased payee, only \$500 would be recoverable from the account. The other \$1,000 would not be a liability of the bank if the bank had not received any notification the person was dead. If the bank had received notification that the person was dead, they would be liable. The liability they are asking the banks to accept in the agreement is that if they accept funds after they have been notified the person is deceased, they must send that money back.

REP. STOVALL asked how they would determine when and if the bank was notified of the person's dying. **Ms. King** stated there are ways of going about that. At the time they removed the person from the account, they obviously knew they were deceased. At that point in time, if they had accepted electronic funds transferred on behalf of the person that was deceased, it is pretty clear they should give that money back. She said they had the same problem with warrants. She stated some banks would accept warrants that have been mailed out without a signature on the warrant. They can get that money back because they guarantee the endorsement that person is no longer alive. She stated they will send warrants as opposed to electronic transfers if they can't get a guarantee that the bank won't accept a warrant for a dead person.

REP. HEAVY RUNNER asked to reiterate what the sponsor had said in respect to those people who are not using the electronic funds

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transfer system and the process for those people who do not have bank accounts. He asked where that would be addressed.

REP. WISEMAN stated in the bill on Page 2 under lines 7, 8, and 9. This states if those people who are retired and don't have an account or live in a rural areas where they may not be able to accept electronic funds transfer, there are some conditions like that in the state. If they retire and they move overseas, there is no way electronic funds transfer can be done so those people would have the paper warrants issued to them. This bill would apply to those people who live in areas served by banks that accept electronic funds transfer.

REP. TAYLOR asked the sponsor if they are trying to mandate that they use this system even if they don't want to.

REP. WISEMAN stated they are trying to suggest strongly to them that this is a service they can benefit from. What the retirement system is trying to do is mail them notices to say please consent to have their checks electronically deposited. If this creates some sort of hassle to let them know and they will examine each of those cases.

REP. TAYLOR asked if they already have that option and have been notified.

REP. WISEMAN stated he thought they would have been notified of that service when they retired. Active state employees are reminded of that periodically. This would save the state money.

REP. BRAINARD stated he had a problem with how the bill is worded where it says "whom the board determines." He stated he thought it should be left up to the individual to determine the hardship of having their funds deposited electronically.

Closing by Sponsor:

REP. WISEMAN closed by stating this will save the state money and he couldn't imagine anyone not using this system. Personally he has his funds deposited electronically. He suggested they work out the problems with the retirement systems and the bank.

HEARING ON HB 273

Opening Statement by Sponsor:

REP. LARRY GRINDE, HD 94, submitted **EXHIBIT 3**. He stated this is a large change for the legislature, but thinks it is one that will help them be better legislators and help the citizens. He is hoping this bill will help alleviate some of the confusion and frustration freshman legislators often feel and make it a better system for all. He referred to page 5. This bill would have elections in November. The legislators would come in on the

first Monday in January. He stated the first Monday in January they would take the oath of office, adopt the rules, and assign the committees. From that point on is where the change would occur. They would recess. He stated this is not set in stone. The next legislative body would write the parameters, these are just suggestions he had put down for the committee to consider. After they recessed is where they would draft the legislation. They would have a request deadline. He suggested October 1, for all bills to be drafted and introduced.

At that point, he could see all bills would be scheduled in committee on one sheet, the hearing times would be there and all bills would be available to them. They would have October, November and December to take the bills home to review and research them. If there were some bills that were redundant, the committee could meet in interim to meld or throw out those bills. He stated the main reason he brought this bill forward is because he believed the citizens of the state of Montana are being left out of the legislative process. Now it isn't in the rules of the House that hearing notices have to be three days prior to the meeting. As the session progresses these hearings get pushed up and people don't have time to prepare as much as they would like or as much as they should. They also don't have as much of a chance to participate.

With this bill, the citizens at the end of the program could call the Legislative Council for lists of bills to be heard and when they would be heard. This would allow them time to plan. If they see something they might want to get involved in they can look it up and come to those hearings. Those people who have legislation in would be able to call their constituencies from around the state in order to reflect the views of the people better. He believed there would be better testimony because it would allow for more time and allow for a more organized session. He stated the main reason for this bill is to bring the citizens aboard and allow them to participate better in the system. The other one is that the system that they now operate under is unhealthy; they are under pressure, and aren't as productive as they could be. There isn't a chance to scrutinize the bills as well as they should.

He went through the exhibit for the committee explaining what the information was about.

Proponents' Testimony:

Steve Brown stated he was before the committee based on his experience. He stated he had been involved in the legislative process since 1973. He thinks **REP. GRINDE** has come up with a great idea that he hoped the legislature would adopt. He stated this would promote a more rational process. It will enable them to get more information. This will enable the legislators to deal with the dissatisfaction of the people. In the end if the people are satisfied with the process, they will be far less

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cynical. He gave the interim study as an example. He stated the reason it doesn't work is because many of the people who serve on the interim study committee don't come back. As a result the interim committee works very hard, usually trying to wrestle complex issues. He said what REP. GRINDE was proposing to do is for those people who serve on those committees will also be the same people who will come back and sell those committee decisions to the legislative body.

He stated with this bill they would be able to do this work in the interim in a more controlled environment where they truly can involve the citizens. The second thing he wanted to address was we are truly in the information age. There is simply no way a person could digest what is being thrown at them in a ninety-day session. He stated he believes this is a great idea and hoped the committee would give it a favorable recommendation.

Arlette Randash, Eagle Forum, stated she was very impressed with REP. GRINDE'S opening statement and Mr. Brown's testimony. She didn't think anyone could add anything to make it any stronger. She thought this was an idea that must take place. She said if the committee were to pass this bill, the citizens would be more familiar with the legislative process and the people would be voting on records rather than promises. She believes this bill would break down the cynicism that is being felt now. Before she ever thought of this legislation, one of the frustrations for her was sitting in Helena and watching a newly elected governor try to put together a team. This bill would preclude that from happening. She stated this is a common sense bill and was surprised when REP. GRINDE had said this was the third time he had tried to introduce it. She stated another thing this bill does is honor the integrity of the people of Montana. She asked the committee to consider the testimony and give the bill a do pass.

Opponents' Testimony: None

Informational Testimony:

Doug Mitchell, Chief of Staff, Secretary of State's Office, stated REP. GRINDE and his staff had been working on this piece of legislation for the past three sessions. He stated there is some real merit to taking a close look at this idea as to how it relates to giving the people of Montana the best service of the elected officials and the bureaucrats.

Questions From Committee Members and Responses:

REP. DENNY asked if Mr. Brown was employed as a lobbyist year round. Mr. Brown stated he was not. In most cases he is not. He has some chief clients whom he represents on other matters.

REP. DENNY asked if he would be employed by his clients year round under this system. Mr. Brown stated probably not much more

than he is at the current time. Under the system proposed is a system that allows people to know what is in process far enough in advance to make a rational judgement on whether or not they need him to lobby for them.

REP. REHBEIN asked the sponsor why not change the election.

REP. GRINDE stated the first bill he had introduced into the system was to change the primary date. He said he and **REP. TROPILA** had been working together on that. He was hoping to get that bill ahead of this one so he could satisfy some of the people by getting the primary date moved back. In order to do that, they would need a constitutional change and he thought one was enough to have on the ballot at the time.

REP. REHBEIN asked if the sponsor would address the idea. He stated the only problem he could see is the way it is now allows him about a year's time to be himself and not **REP. REHBEIN**. With this bill he would either be running for office or at the legislature.

REP. GRINDE stated what he believed the positive thing this bill will do is after the organizational session, he will be able to take the legislation back to the constituents and have town meetings and will be more absorbed by the citizens out there. He told **REP. REHBEIN** that he would be a representative most of the time, but that is what he is elected to do.

REP. HEAVY RUNNER stated he sees this bill as being good common sense. He said in dealing with human beings they tend to throw common sense out the window. He said one of the benefits of this bill would be to give officials time to hire staff and put them together and form a team. There would be time for him to review the pieces of legislation proposed and would be able to listen to his constituents and review their concerns. It would also be common sense to have the legislators to have the skills and assistance to do an adequate job.

REP. GRINDE replied by saying he was glad he had brought up the common sense aspect. He said they have really lost that common sense approach. He sees helping staff would be available to them. The committees would be a standing committee. Instead of having interim committees they would be able to address those issues. They would come with four or five pieces of legislation that they could meld together and make one better piece of legislation. The staff and expertise would be available for that.

REP. SCHWINDEN asked the sponsor about the request deadline. If they have a request deadline of August 15, would there be some similar process for suspending the rules to address an issue that might come up while they were meeting.

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REP. GRINDE stated yes, there would be some type of process for suspending the rules. He pointed out the deadlines he had put in are just suggestions and they would work together to make the rules and the deadlines. He felt it was important for them to write the legislation together.

REP. BRAINARD asked if the regular session would be like the one that is being held now.

REP. GRINDE stated the constitution would still say the session is not more than ninety days. He stated when they met the first week, it would count toward the ninety days. This would not extend the ninety days.

REP. BRAINARD asked what this would entail as far as spending.

REP. GRINDE stated again they would be running this together. It would be no different than the interim committee that they have now except for the fact that he feels they should be paid wages for that time. Most interim committees now get travel, meals, and lodging. If they were to do this they should also get paid wages. There may be some added expense involved, but he feels it is only fair if they want to streamline the process. He felt the cost savings overall, without the special sessions, would pay for the wages.

REP. STOVALL asked if the committee were to pass this bill, if the legislature would have to go the full ninety days.

REP. GRINDE answered the constitution states the session would be no longer than ninety days. He felt if this process was in place they would be able to adjourn in less than ninety days. There would be a great amount of streamlining.

REP. BRAINARD stated he could see some real value in the process. He asked how effective this would be for freshman legislators.

REP. GRINDE stated he felt hands-on experience is the best teacher. He thought they could get expertise from this because they would probably be caucusing, getting together with other legislators. He stated he could see his point about being thrown into this, but he felt they would be better informed overall if it was done in this manner. They would be ready to hit the ground running because they would have had time to read the bills and research the issues and hopefully be better educated.

REP. DENNY asked what would happen if they have too many bill requests. Who would handle the volume?

REP. GRINDE stated it does discuss this issue. This would be one of the drawbacks of this proposal. This would be a possibility. He has always pushed for bill limitations. He felt they need some kind of cap for bill requests and self discipline.

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REP. SIMPKINS stated Colorado has a five bill limit that has met a constitutional challenge. He stated they meet every year so it would be the equivalent of them having ten bills. He stated this bill only says they want to change to even years and the advantages are that this would be more beneficial for the citizens to participate in the legislative process. If this passes the legislature and passes the general public, how do they deal with this in the legislative process itself? It could cost more money depending upon the rules they establish, the meetings they want to have during the year and other things that can't be adequately addressed at this time. They first have to say whether or not it is a better advantage to have the general public to be greater participants of the legislative process to pass the legislation. The other question is how they would run if this bill passes.

Closing by Sponsor:

REP. GRINDE closed stating the citizens are currently out of the process and the more they can get the public involved, the more respect they get as legislators. If they could bring these people in and streamline the process he felt it would be to everyone's benefit. This is a nonpartisan piece of legislation. There was a lot of skepticism the first time he introduced this bill. He stated his emphasis has been on trying to make this a better process that works better for all people. This is a constitutional change that will require 100 votes in order to put it on the ballot. He stated the Senate will be a tough go to get this through, but he felt confident. He restated the people would write this together. He stated there was an amendment to bring the time frames up to date. It would change it from 1997 to 1998. He asked the committee to amend the bill to get it into its proper form. He also asked the legislators to talk to one another and to others on the floor. He hoped the committee would pass the bill to make the process better for the citizens and better for the legislators as well.

HEARING ON HB 298

Opening Statement by Sponsor:

REP. DORE SCHWINDEN, HD 98, opened for **REP. PAT GALVIN** and stated this bill was at the request of the interim retirement committee.

Sheri Heffelfinger gave a briefing of the bill. **Exhibit 5**. She stated the bill simply changes the current retiree limitations from 600 hours to 640 hours. A member who is under 65 years of age is temporarily reduced one dollar for every dollar earned that exceeds 600 hours only if they go back to work in a position that is covered under the public employees retirement system. If they are over the age of 65, they are either subject to the 600 hour limitation or to earning no more than 50 percent of their annual retirement benefit. If they exceed that, they receive a

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dollar-for-dollar reduction in the benefit. This is not adjusted for inflation.

What the bill does for people under the age of 65 is raise the work limitation from 600 hours to 640 hours. For those people who are older than 65, they may take either the 640 hours or they may take 50 percent of their benefits but it is then adjusted for inflation so the amount would increase. There is also an exemption for retirees who are age 70.5 or older who would not be subject to any work limitations at all. This is only if the retiree goes back to work in a position that is covered by the retirement system in which they retired.

Proponents' Testimony:

Jerry Driscoll, Montana Building Trades Council, stated the bill would allow the retirees who retire under state pension plans to work more hours and bring this more closely in line with the federal government demands for private pensions. If a person retires under a private pension plan there are limits on how much a person could work. He said state limits are substantially less than the private sector. In the private sector pension plan at age 70 and a half, they must start paying pension to the retiree even if they are still working. He said this was a very small minority, probably two percent of the people. He said the state pension plans are now covered by American Private Income Security Act. In the private sector a person must start paying pensions at age 70 and a half. He said this would allow some people to retire.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. BRAINARD asked how many retirees this would affect.

Linda King stated currently this bill only affects PERS. She stated they have anywhere from 300-500 retirees who work during the year. She stated there are times when these retirees come back and work for their previous employers and other times when they are doing jobs for other people. She stated they would be talking, in PERS, over 12,000 retirees who will work at least one hour. She said there were three people last year who went over the current 600 hour limit. Generally, most people aren't working that amount of time.

REP. BRAINARD asked how this would tie in to early retirement.

Ms. King stated if they were referring to the retirement incentive program this bill would not change for those people. She stated that was a completely separate section of law. The law for retirement incentive says if people come back within the

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same jurisdiction for more than 599 hours without losing their benefits. She stated this bill would not affect that.

REP. DENNY asked if someone were to come back, would the state continue to contribute to PERS for that employee.

Ms. King stated they wouldn't if they were a retiree. She stated a retiree in law is called a retired member and they do not have to pay contributions. She said they could elect to become an active member in which case their retirement would be cancelled and they would then pay contributions. She stated they wouldn't be in service at that time.

REP. SMITH asked what were the private industry guidelines.

Ms. King stated it depends on the individuals and the governing board. She stated the legislature is the governing board in terms of getting planned documents.

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REP. SMITH asked if there was a way for them to figure an average.

Mr. Driscoll stated private pension plans don't restrict retirees. He stated it is dollar amounts that they deal with.

REP. SMITH stated she had figured things out for a forty-hour week. She asked if they would be moving from fifteen weeks to sixteen weeks. She asked if it would make a difference to give the three or four people affected by this an extra week.

Ms. King stated she didn't think the thought of the committee was the people. She said the concern was with the school districts and what they needed for their school instructors. She said they could recruit retirees to drive buses for them if they could get the 640 hours. She said this was an employer request more than an employee or retiree request. Currently under the 600 hours many of the school bus drivers would have to give up retirement benefits to work the amount of hours required to drive bus each year. She stated the extra week would cover most of the bus drivers of the state.

REP. SMITH asked if there was any testimony from bus drivers.

REP. SIMPKINS stated there wasn't.

REP. TAYLOR asked if this would affect drivers by extending the hours. She asked if there would be competition for jobs.

Ms. King stated they are not hiring full-time bus drivers. She stated they would be working three or four hours a day. She also stated they are looking for people who don't need a full time job and only want and need to work three or four hours a day. She

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stated school districts were running into problems of recruiting retirees for these types of jobs because of the limitation of 600 hours. She stated this amount of time was too small and none of the PERS retirees would take the job.

REP. SIMPKINS stated when the bill was brought before the retirement committee, the three people a year that went over the amount of time allowed for the retirees to work. He stated they weren't trying to protect those people, they were trying to meet a specific need as registered by the schools and other state agencies that wanted people for a few hours a day. He stated they tried to look at this proposal two ways. This bill would benefit the retirees so they would have something to do in their spare time and also benefit the schools that need people for only a few hours a day to do various jobs such as driving a bus. He stated union organizations don't have an objection to this bill and extending these benefits to retirees. He said the committee didn't run into any resistance from organizations and they received support from organized labor for this bill. He stated they saw no displacement of workers because of this.

REP. GALVIN stated some people who work the 600 hours and receive retirement benefits still can't make ends meet. He gave an example of a cook who couldn't make ends meet and had asked for an extension to the 600 hours. He stated some people on the committee wanted more hours. They discussed the possibility of getting too many hours and they could then fall into the category of possibly having people trying to compete for jobs and some losing their jobs because of the increase in hours. He stated it isn't to that extent yet. He said they are trying to appease these people.

REP. GREEN asked if the 40 hours had much of an effect on what the law was before. He stated it weighs on the pension the person gets.

REP. GALVIN stated pensions vary. The question was referred to **Sheri Heffelfinger**.

Ms. Heffelfinger stated in the committee meetings there was concern with the fifty percent cap on the amount a person over the age of 65 could earn. She stated that 50 percent is not tied to inflation. The fifty percent of the benefit was getting lower and lower for those individuals. Their concern was to raise the cap or at least tie it into inflation. Subsection (2) of the section that is being amended allows for the adjustment for inflation.

REP. REHBEIN asked how raising the cap on the inflation adjustment will affect the retirement system. He asked what the cost would be and if there were any figures for this adjustment.

Ms. Heffelfinger stated this wouldn't be funded by the system and there would be no impact on the system. The question was referred.

Ms. King stated they would normally reduce benefits temporarily for those individuals who go over the 600 hours stated in law currently. She stated it is not part of the actuarial functions used by the system. By not reducing benefits, they will not lose any money because they wouldn't assume they would work over the hours specified. While a few people have had reductions in the past, it wouldn't be something that they would consider important to the funding of the system. They never assumed they would be saving five or ten dollars here and there with the hour cap.

REP. SIMPKINS stated they are sometimes locked into the assumption these people have worked for the state for thirty years. He stated they may or may not have worked for the state long. He stated they are talking about retirees as a whole and some of the retirement checks could be very small.

Ms. King stated regular retirement is age 60 and five years of service. If someone is age 65, they don't need to have a specified amount of years of service in order to qualify for retirement. While there are very few people with less than five years of service there are still those people out there that are drawing benefits. These benefits are very small.

Closing by Sponsor:

REP. GALVIN closed.

EXECUTIVE ACTION ON HB 298

Motion: REP. MASOLO MOVED THAT HB 298 DO PASS.

Discussion:

REP. REHBEIN asked if this would only affect PERS people. He asked if they allowed the people in PERS to do this, if the people in TERS would want to have the same thing for their retirement system as well.

Ms. Heffelfinger stated there are no worker limitations in other systems. PERS is the only system that limits the number of hours a retiree may work in a year.

REP. SIMPKINS stated the reason for this was because it is a very broad reaching category. PERS is a far broader spectrum in the system than TERS.

Vote: Motion carried 17-1 with REP. SMITH voting no and REP. SQUIRES and REP. HAGENER voting by proxy.

January 24, 1995

Page 16 of 20

EXECUTIVE ACTION ON HB 205**Motion:** REP. SCHWINDEN MOVED HB 205 DO PASS.**Discussion:**

Ms. Heffelfinger stated this bill was at the request of the Teacher's Retirement Board as their general revision bill. She stated there were some handouts and reports to the committee about the Public Employees Retirement System. The committee recommendation was on that report. **David Senn** gave a section by section analysis of the bill and tells what each section does. The main points were all enumerated in the title of the bill.

REP. REHBEIN stated on Page 6 of the bill that the board be redefined to three members. He stated they would be reducing the authority of the six members to two members. If the quorum goes up, they'll reduce the six member board to two members controlling what the board decides to do.

Mr. Senn stated the reason the Teacher's Retirement Board had selected three was because one of the members of the board is the Superintendent of Public Instruction. By election to this office he is automatically appointed to the board. He stated that leaves five members to be appointed to the board by the Governor. He stated they had chosen three for that reason.

REP. REHBEIN asked if this was three board members plus or if it would be three members including.

Mr. Senn stated it would be three members including Keenan.

REP. TAYLOR stated she comes from eastern Montana where school teachers get their housing as part of their pay. She stated she understood the bill to say the value of their housing is not calculated as part of their retirement. She stated she didn't know if this would affect five people or thirty people, but the committee had heard a bill to bring 39 people under a system that were forgotten when the law had been passed. She stated she didn't want to forget these people who are receiving housing as part of their pay.

Mr. Senn stated under the Teacher's Retirement System housing is required to be reported to the Teacher's Retirement System if it is part of the teacher's pay. He stated there aren't many cases of this. Those who are currently part of the system would continue to have a contract right and would continue to have the housing supplied to them. He stated this bill would only affect those hired after this is turned into law if it were to be passed. Not many people are reporting housing.

He stated they aren't doing this for a variety of reasons. The main reason is if they need to contribute on a \$2000 house, the take-home pay would go down. He stated another problem with the

value of housing is who determines the value of the house and what a fair market value would be for the home. He stated the board looked at this and they didn't want to take the role of dictating the value of housing to school boards and reduce the take-home pay of the employees and increase the employer contribution for those districts. He stated what the board had decided to do is take the value of housing out.

He stated **REP. TAYLOR** was correct in her statement that housing value doesn't show up in the final average value. He stated this would make the average a little low. The Legislature wants to leave this out and the Teacher's Retirement Board didn't have serious objection to that. He asked for the committee to keep in mind they would be serious about collecting on the value of housing.

REP. TAYLOR stated for those people who want to include the housing as part of their retirement would no longer have that as a benefit of retirement if this bill were to pass. She stated she didn't like that any more than she would like to tell someone else they couldn't receive \$2,000 of their annual salary. She stated they deal with that issue in her area.

Mr. Senn stated the \$2,000 value in the example he had given was pretty close to actual figures in most cases. It is a benefit to that individual who doesn't want to move into an area for a little while and rent or buy a house. They make the house available to them. He stated this takes care of the problem of trying to find a home. It is a benefit in terms of enhancing final average salary if they are working in that district for three to five years. If that would be the case this would increase their benefits. The drawback to this is once they start recording the housing, they must do it from Day One and do it until they retire. This would cause a decrease of their income and take-home pay. He stated that was the reason the board wanted to change that and drop it from the system because it didn't seem like a significant benefit to members. He stated there hasn't been any objection to this.

REP. SIMPKINS asked if this would need to be recorded for state and federal income tax.

Mr. Senn stated the question was a difficult one to answer yes or no. He stated it was his understanding housing is recorded on an off campus site. If they can see the school the value of housing is not taxable by the federal government. He stated the housing may or may not be taxable income depending on where the house is located.

REP. SIMPKINS stated with this situation if they say they would include it as a retirement benefit it would also have to become a taxable benefit. The teacher may lose in the long run. He stated these are some of the considerations they took into account when they first looked at this bill. He said it was

HOUSE STATE ADMINISTRATION COMMITTEE

January 24, 1995

Page 18 of 20

difficult to determine who would be disadvantaged by this bill. He stated it was the conclusion of the School Boards Association and others looking at the bill that there could be more harm done than good. He stated they didn't know how much harm they could do by going a different way with the bill. He stated this was a very complicated issue.

REP. DENNY asked what the standard of the quorum would be for a board. He asked if it would be a majority of the members or half the members.

Ms. Heffelfinger stated it would be a majority of the members for a quorum.

REP. DENNY stated he was curious as to why the committee wanted to change the number from a quorum to half the members.

Ms. King stated with her board the quorum is three members of the six must be present. She gave some background to the board. She stated that at one time there had been five members on the board and the quorum was the majority. She stated when they changed the size of the board they didn't change the quorum because it was difficult to get people there. She stated they believed they would be at a disadvantage if the quorum would have been the majority when some of the people may not have been able to arrive at the meeting. She stated they hadn't found that to be a problem on their board because the members are very active.

REP. REHBEIN proposed to amend the bill to state the quorum would be three members plus the Superintendent of Public instruction for a total of four members.

REP. SIMPKINS stated the amendment couldn't say "plus the Superintendent of Public Instruction" because he or she is already a member of the board.

Motion: **REP. REHBEIN MOVED TO AMEND LINE 21.**

Discussion:

REP. DENNY stated he personally was satisfied with the answer he had received with why the quorum was at three members.

REP. SIMPKINS stated he was satisfied with three members for the quorum.

REP. GREEN stated he was uncomfortable with the quorum being three members. He stated he supported **REP. REHBEIN's** amendment.

REP. TROPILA asked **Mr. Senn** to clarify the amendment for the committee.

Mr. Senn stated the reason the quorum is at three because the Superintendent of Public Instruction has attended only three

HOUSE STATE ADMINISTRATION COMMITTEE

January 24, 1995

Page 19 of 20

meetings in the past five years. He stated the Superintendent is on many boards and they conflict with some of the meetings for the Teacher's Retirement Board. He stated there is a representative for the Superintendent of Public Instruction at the meeting and they can only provide information at the meetings and don't hold a vote. He stated the Teacher's Retirement Board typically meets five times a year. He asked the committee to consider this amendment very carefully.

REP. TAYLOR asked if the Superintendent votes by proxy.

Mr. Senn stated the Superintendent as a board member has a judiciary responsibility and voting by proxy without being there to hear what is being discussed, in his opinion, would be out of order.

REP. SMITH asked why this was the quorum of three members put in the bill to begin with if it had never been put in there before.

REP. SIMPKINS stated it was to match the PERS system in case they were to have a problem with it in the future.

Mr. Senn stated the question had never come up in the past and they had never had any problems with having at least three members at the meetings until weather played a role.

Vote: Motion failed 6-12 with REP. BRAINARD, REP. GREEN, REP. MARTINEZ, REP. REHBEIN, REP. SMITH, AND REP. TAYLOR voting yes. REP. GALVIN, REP. HAGENER, REP. HEAVY RUNNER, REP. KITZENBERG, REP. MASOLO, REP. SQUIRES, and REP. TAYLOR voted by proxy.

Vote: Motion carried 13-5 with REP. GREEN, REP. MARTINEZ, REP. REHBEIN, REP. SMITH, and REP. TAYLOR voting no. REP. GALVIN, REP. HAGENER, REP. HEAVY RUNNER, REP. KITZENBERG, REP. MASOLO, REP. SQUIRES, and REP. TAYLOR voted by proxy.

Exhibits 4 and 5 were submitted into the record.

HOUSE STATE ADMINISTRATION COMMITTEE

January 24, 1995

Page 20 of 20

ADJOURNMENT

Adjournment: 11:30 A.M.

Richard Simpkins
RICHARD SIMPKINS, Chairman

Christen Vincent
CHRISTEN VINCENT, Secretary

RS/CDV

HOUSE OF REPRESENTATIVES

State Administration

ROLL CALL

DATE January 24, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Simpkin, Chairman	✓		
Rep. Matt Denny, Vice Chairman, Majority	✓		
Rep. Dore Schwinden, Vice Chair, Minority	✓		
Rep. Matt Brainard	✓		
Rep. Pat Galvin	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener			✓
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Sam Kitzenberg	✓		
Rep. Bonnie Martinez	✓		
Rep. Gay Ann Masólo	✓		
Rep. Bill Rehbein	✓		
Rep. Susan Smith	✓		
Rep. Jay Stovall	✓		
Rep. Carolyn Squires			✓
Rep. Lila Taylor	✓		
Rep. Joe Tropila	✓		



HOUSE STANDING COMMITTEE REPORT

January 24, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 205 (first reading copy -- white) do pass.

Signed: Dick Simpkins
Dick Simpkins, Chair

A handwritten signature of "Dick Simpkins" in cursive script.

Committee Vote:
Yes 13, No 5.

201150SC.Hbk



HOUSE STANDING COMMITTEE REPORT

January 24, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that **House Bill 298** (first reading copy -- white) **do pass**.

Signed: Dick Simpkins
Dick Simpkins, Chair

Handwritten initials "D.S." followed by a small checkmark.

Committee Vote:
Yes ✓, No .

201146SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 1-24-95 BILL NO. HB NUMBER 205

MOTION: DO PASS MADE BY REP. DORE SCHWINDEN.

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, Minority	✓	
Rep. Matt Brainard	✓	
Rep. Pat Galvin <u>By Proxy</u>	✓	
Rep. Dick Green		✓
Rep. Toni Hagener <u>By Proxy</u>	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner <u>By Proxy</u>	✓	
Rep. Sam Kitzenberg <u>By Proxy</u>	✓	
Rep. Bonnie Martinez		✓
Rep. Gay Ann Masolo <u>By Proxy</u>	✓	
Rep. Bill Rehbein		✓
Rep. Susan Smith		✓
Rep. Jay Stovall	✓	
Rep. Carolyn Squires <u>By Proxy</u>	✓	
Rep. Lila Taylor <u>By Proxy</u>		✓
Rep. Joe Tropila	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 1-24-95 BILL NO. HB NUMBER 206

MOTION: TO AMEND MADE BY REP. BILL REHBEIN.

NAME	AYE	NO
Rep. Dick Simpkin, Chairman		✓
Rep. Matt Denny, Vice Chairman, Majority		✓
Rep. Dore Schwinden, Vice Chairman, Minority		✓
Rep. Matt Brainard	✓	
Rep. Pat Galvin <u>By Proxy</u>		✓
Rep. Dick Green	✓	
Rep. Toni Hagener <u>By Proxy</u>		✓
Rep. Harriet Hayne		✓
Rep. George Heavy Runner <u>By Proxy</u>		✓
Rep. Sam Kitzenberg <u>By Proxy</u>		✓
Rep. Bonnie Martinez	✓	
Rep. Gay Ann Masolo <u>By Proxy</u>		✓
Rep. Bill Rehbein	✓	
Rep. Susan Smith	✓	
Rep. Jay Stovall		✓
Rep. Carolyn Squires <u>By Proxy</u>		✓
Rep. Lila Taylor <u>By Proxy</u>	✓	
Rep. Joe Tropila		✓

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 1-24-96 BILL NO. HB NUMBER 298

MOTION: DO PASS MADE BY REP. GAY ANN MASOLO.

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	/	
Rep. Matt Denny, Vice Chairman, Majority	/	
Rep. Dore Schwinden, Vice Chairman, Minority	/	
Rep. Matt Brainard	/	
Rep. Pat Galvin	/	
Rep. Dick Green	/	
Rep. Toni Hagener	/	
Rep. Harriet Hayne <i>By Proxy</i>	/	
Rep. George Heavy Runner	/	
Rep. Sam Kitzenberg	/	
Rep. Bonnie Martinez	/	
Rep. Gay Ann Masolo	/	
Rep. Bill Rehbein	/	
Rep. Susan Smith		/
Rep. Jay Stovall	/	
Rep. Carolyn Squires <i>By Proxy</i>	/	
Rep. Lila Taylor	/	
Rep. Joe Tropila	/	

1-24-95

No to command

See to HIB 205

Ma Hirsch

COMMITTEE PROXY

Date

1/24/95

I request to be excused from the State Administration Committee Committee meeting this date because of other commitments. I desire to leave my proxy vote with Rep. Gore Schwinden.

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

Rep. George Henry Rumm
(Signature)

COMMITTEE PROXY

Date

1/24/95

I request to be excused from the State Administration
Committee meeting this date because of other commitments. I
desire to leave my proxy vote with Worje Schwander.

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

Rep.

(Signature)

HR:1991
wp/proxy

COMMITTEE PROXY

Date 1-24-95

I request to be excused from the State Ad.
Committee meeting this date because of other commitments. I
desire to leave my proxy vote with Don Schwinden.

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

Rep

D. Helvin
(Signature)

HR:1991
wp/proxy

Amendments to House Bill No. 275
First Reading Copy

Requested by Rep. Wiseman
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
January 24, 1995

1. Page 2, line 6 and page 3, lines 2 and 11.
Strike: "June 30, 1995"
Insert: "January 1, 1996"

EXHIBIT One
DATE 1-24-95
HB 275

HOUSE BILL 275: amendments suggested by Montana Bankers Association

Amend House Bill No. 275, by adding the following sentence at three (3) places in the bill.

First: add the following sentence in Section 2, page 2 at line 11 following "be given a registered paper warrant as provided in 17-8-304."

Second: add the following sentence in Section 3, page 3, line 7, following the language, "in 17-8-304."

Third: add the following sentence in Section 4, page 3, line 16, following the language, "be given a registered paper warrant as provided in 17-8-304."

The sentence to be added in the three above described places in the bill would read as follows:

"The form used by the benefit recipient to designate the financial institution to receive deposit of the benefit recipient's payment, cannot set forth or contain any conditions requiring the financial institution to determine the status of the benefit recipient as to death, marriage, capacity or any other similar status or condition affecting the recipient's eligibility to receive benefits."

EXHIBIT two
DATE 1-24-95
HB 225

TO: LEGISLATIVE MEMBERS
FROM: REPRESENTATIVE GRINDE
SUBJECT: HOUSE BILL 273

LEGISLATIVE SESSIONS IN EVEN NUMBERED YEARS

***DO YOU LIKE THE LEGISLATIVE SYSTEM
YOU ARE CURRENTLY OPERATING
UNDER?***

ATTACHED IS INFORMATION PERTAINING TO HOUSE BILL 273.

THE CRUX OF THE BILL IS PAGE NUMBER FIVE (PG.#5) THE DATES GIVEN ARE ONLY IN PARAMETERS; YOU WILL DECIDE ON THE PERMANENT DATES.

PLEASE TAKE A MINUTE TO READ THIS INFORMATION - I AM HAPPY TO ANSWER ANY QUESTIONS OR CONCERNs YOU MAY HAVE REGARDING THIS PROPOSED PIECE OF LEGISLATION.

three
1-24-95
273

January 23, 1995

TO: Addressee

FROM: Representative Larry Hal Grinde

SUBJECT: House Bill 273: Even-numbered year legislative sessions

Attached is some general information pertaining to House Bill 273 that, if adopted, will shift the regular sessions of future Legislatures from odd-numbered years to even-numbered years. At first glance, the bill and the concept seem simple and innocuous. The bill and the concept are simple, but the effects are far reaching.

Under the current process, the Legislature scrambles to organize following the November elections, hurries to have bills drafted and introduced, rushes through public hearings and committee action, and races to complete the complex and difficult tasks of making public policy in 90 days. The is process work -- but it does not work well.

Adopting House Bill 273 will provide many benefits. The Executive Branch profits by having more time to develop and propose major initiatives, both through substantive legislation and through the budget. The Legislature gains by having sufficient time to have legislation drafted and reviewed by a broader public, by allowing greater analysis and consideration of complex policy issues, and by providing more evenly-paced and timely schedules for action on legislation. Perhaps the greatest beneficiaries, however, are Montana's citizens who stand to gain from greater access to participation in the process.

The new process is simple: following November general elections, the Legislature would take the oath of office, organize, and adopt rules of procedure, which activities should be done in a few days. Throughout the remainder of the odd-numbered year, legislators could have legislation drafted, standing committees could meet to discuss complex issues, and leadership could schedule an orderly agenda for the regular session in the even-numbered year. Good planning allows for good process; sufficient time for consideration allows for greater participation and better government.

An additional benefit is that no extra cost should be incurred, and cost savings could accrue. Having all bill drafted and introduced prior to the Legislature convening would allow leadership to plan the pace of the session and schedule activities accordingly.

In summary, the benefits promised by adopting an even-year session schedule are substantial for everyone involved. The simple change in process will allow extensive improvements in the process of making public policy in Montana.

CONSTITUTIONAL AMENDMENT

1

House BILL NO. 273

2

INTRODUCED BY GRINDE MURRAY HAPP Toster Hollen Hay

3

Pack Benedict Gale - Bertl Knox Rehbein Dolan Haynes E

4

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN

5

AMENDMENT TO ARTICLE V, SECTION 6, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE

6

LEGISLATURE SHALL MEET IN EVEN-NUMBERED YEARS; AND PROVIDING AN EFFECTIVE DATE." Mor

7

Jordan Schmidle Ellen Barnett Simpkins James Lehman

8

Swanson Forbes Kaveny Silva Gillett Carlson

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

Section 1. Article V, section 6, of The Constitution of the State of Montana is amended to read:

11

"Section 6. Sessions. The legislature shall meet each ~~odd-numbered~~ even-numbered year in regular

12

session of not more than 90 legislative days. Any legislature may increase the limit on the length of any

13

subsequent session. The legislature may be convened in special sessions by the governor or at the written

14

request of a majority of the members."

15

16

NEW SECTION. Section 2. Submission to electorate. This amendment shall be submitted to the

17

qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot

18

the full title of this act and the following:

19

[] FOR the legislature meeting in even-numbered years.

20

[] AGAINST the legislature meeting in even-numbered years.

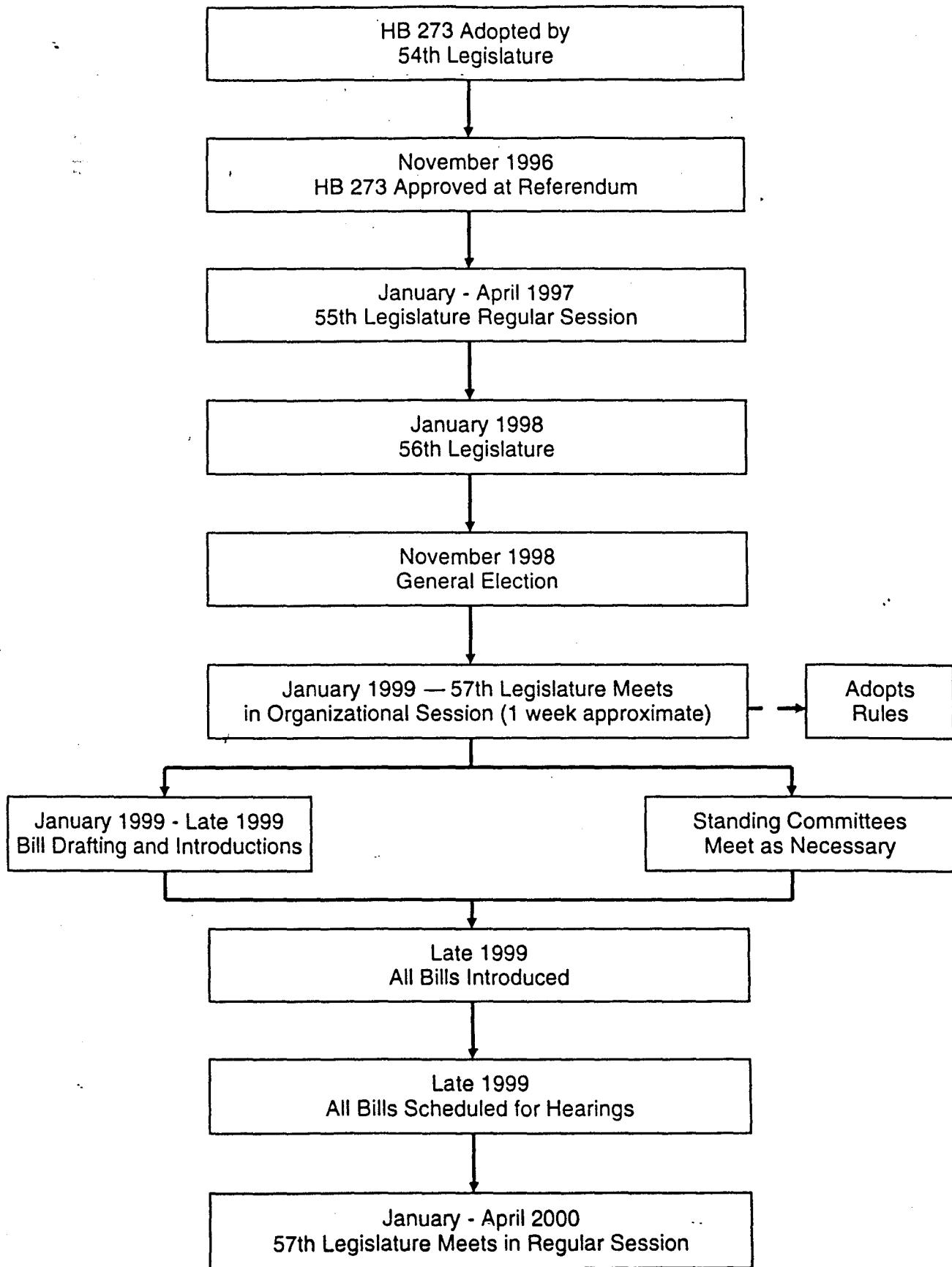
21

NEW SECTION. Section 3. Effective date. [This act] is effective January 1, 1997.

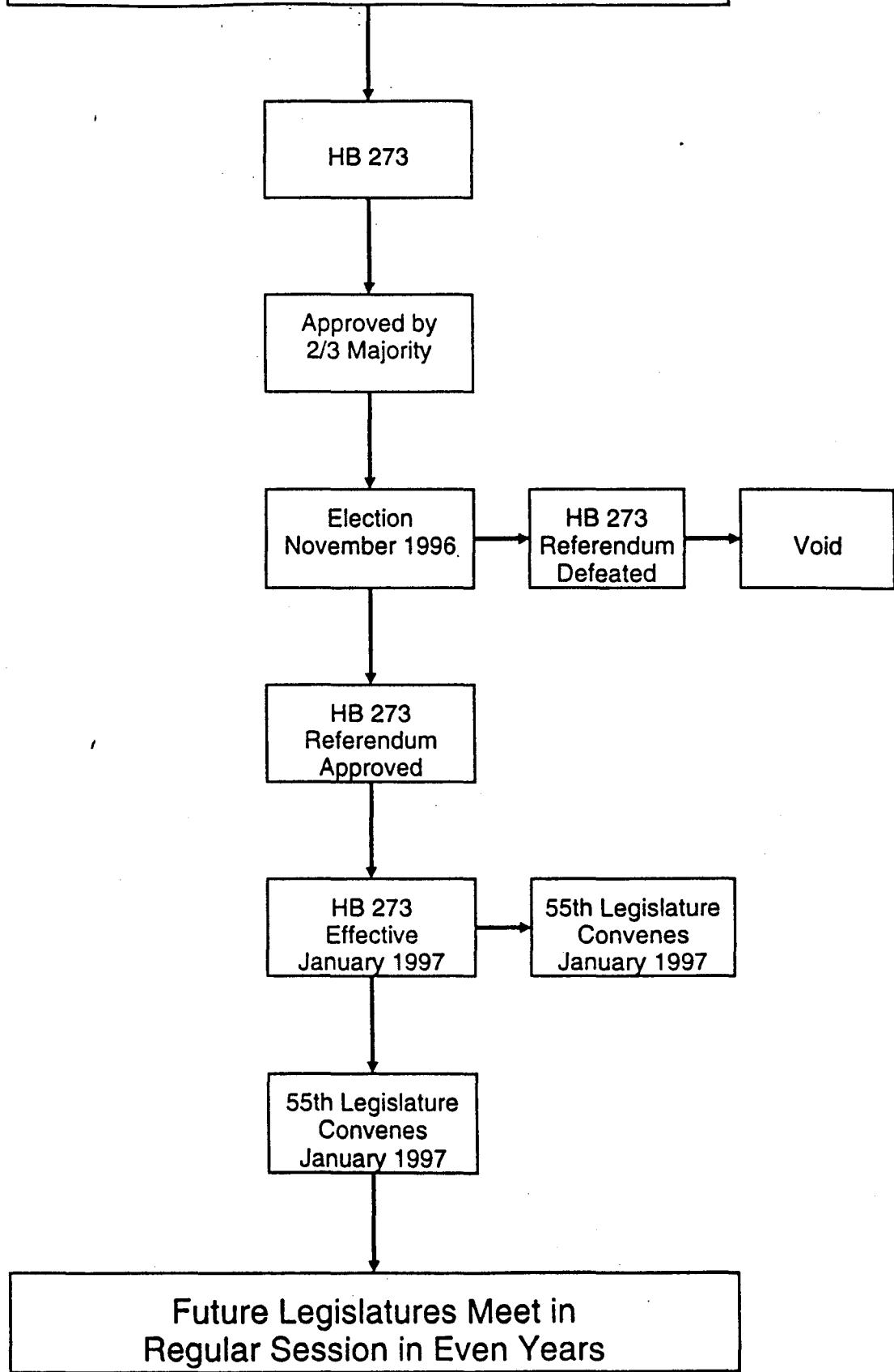
22

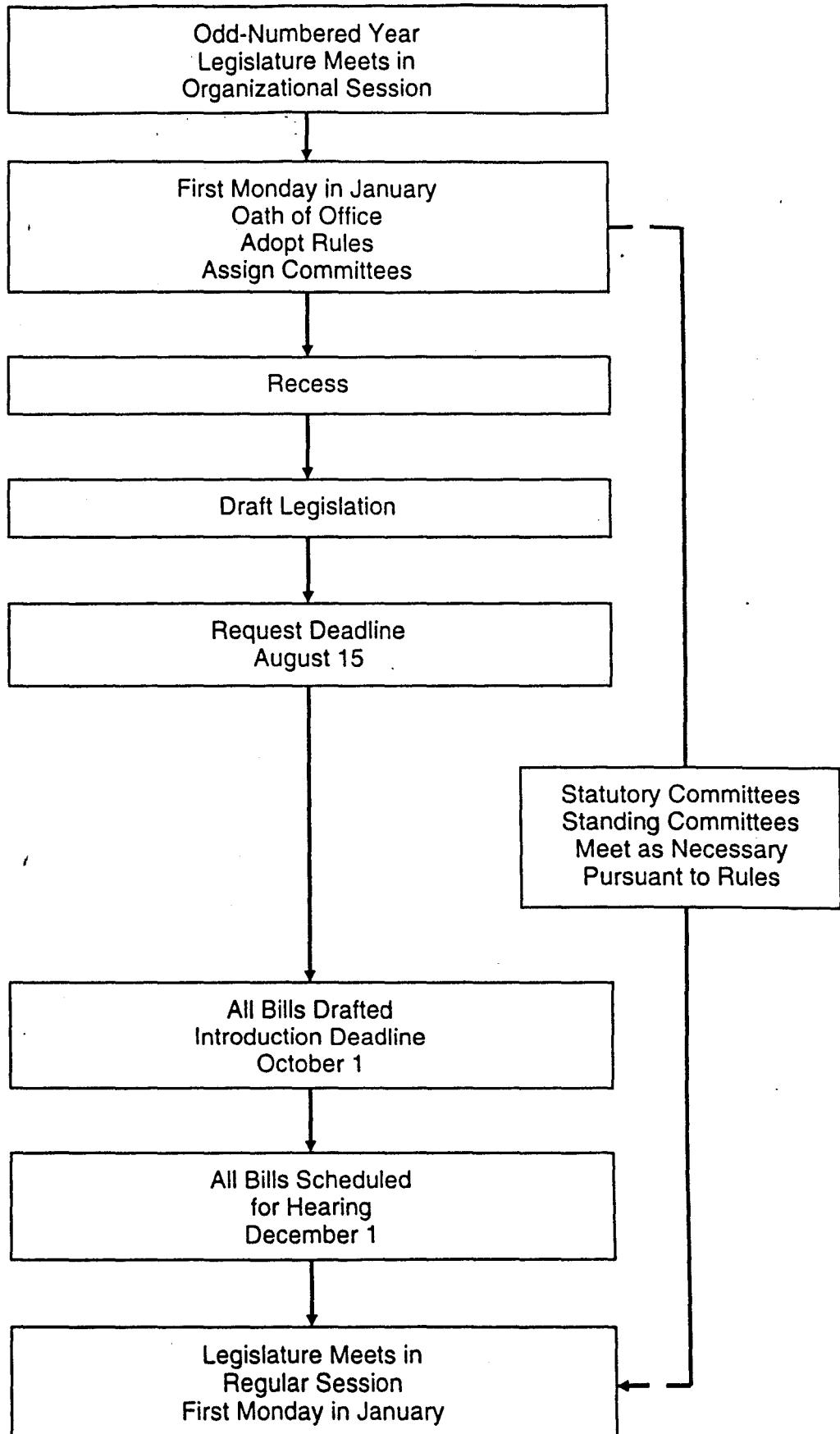
-END-





54th Legislature — 1995





ORGANIZATIONAL MEETING
House Bill 273

Representative Larry Hal Grinde

There is no need to formally convene the legislature in order to take the oath of office. Article III, section 3, of the Montana Constitution provides that members of the Legislature shall take the prescribed oath before they enter upon the duties of the office.

The rules of the legislature can be adopted, the leadership can be elected, and committees can be appointed without convening the legislature in session. The legislature may handle it's own internal operating procedures in any manner it sees fit. The only requirement for convening the legislature is to enact laws, and to confirm appointments.

If the legislature wished to formally convene in the organizational meeting, that would be the legislature's prerogative.

It would be virtually impossible to have rules and deadlines if the only constitutional requirement were that the legislature meet in regular session of not more than 90 days every 2 years. Requiring that bills be prefiled and agendas established in advance could not be achieved if the legislature did not know when it would meet or for how long.

Arguments in favor of meeting in regular session in even-numbered years.

- 1) Elimination of lame ducks -- interim committees would be composed entirely of members who would serve in the session following the interim.
- 2) Leadership and party responsibility -- leadership would be elected a year prior to a session and rules could be in place prior to the session. A party would have a year under the guidance of the elected leaders to put together a package of legislation aimed at achieving specific goals or policies.
- 3) Administrative support -- staff would have an entire year to accept requests from all legislators and if legislative rules provided a reasonable cutoff date for requests, all bills could be drafted prior to the convening of a legislative session. Enhanced scheduling and coordination of bills would result.
- 4) Newly elected officials would have a year in office prior to the legislative session. This would give newly elected officials time to hire staff and put together a legislative agenda.
- 5) Enhanced ability to perform certain duties -- if committees were appointed at an organizational session, committees such as the senate state administration committee would have a reasonable time to scrutinize appointments, analyze potential issues and work toward consensus.
- 6) Cost savings -- items 1 through 5 should result in reduced overtime costs for session personnel.

POTENTIAL BENEFITS OF THE CHANGE

Greater Involvement of the Public

- Pro The public could be the single biggest beneficiary. With more work done prior to legislative sessions, the public would have an opportunity to participate at the local level, rather than having to come to Helena or being excluded completely.
- Con Greater involvement of the public will slow down the process. While the legislative institution is not disposed to quick action in any sense, heavy public involvement will require a more deliberate pace still.

Proximity of Elections

- Pro The public would also benefit from elections being held at a time closer to legislative sessions, thereby creating an opportunity for a "referendum" on each respective legislator's accomplishments and effectiveness.
- Con Politics could play a more prominent role than it does now. How? Currently, newly elected legislators are riding the wave of their respective mandate. They were elected to do a job and they want to get after it! If elections follow the session by only 6 months, it may be that legislators will vote their politics rather than their conscience. The politics of reelection could affect legislators much differently than the politics of election.

Policy Inquiry, Analysis, and Reflection

- Pro Legislative committees would benefit because they would be able to focus on complex matters for an adequate amount of time, rather than being forced to deal with issues within the constraints imposed by the current process. By having the ability to hold public hearings/meetings in local communities, people other than lobbyists and special interests, including state and local agencies, would have an opportunity to be heard.

Con Having public meetings/hearings would involve some costs: legislator salary and per diem, plus travel expenses of necessary staff. Additionally, as neither the House nor the Senate has permanent staff support, some legislative branch agency would likely have to provide support.

Efficiency in Process

Pro By having all of the bills drafted and introduced, legislative leadership would have a better opportunity to plan and schedule legislative action. Additionally, committee chairs would be able to more effectively schedule bills for hearing.

An opportunity would be created for each legislature to conduct its business in less than 90 days. If all of the bills were drafted and introduced prior to the regular session, standing committees could begin substantive work on "Day 1" of the session, rather than having to wait 10 days or two weeks to get up to speed. A session of less than 90 days could mean a cost savings, although that might not be a major consideration.

Con Parkinson's Law may will come into play: "The amount of work will expand to fill the allotted time." One of the bills' goals is to allow the process more time to deal with the workload. That is fine as long as the workload does not increase. As hard as leadership may try, there is no guarantee that more bills will not be requested or introduced, or that the legislature will effectively restrict, through limits or deadlines, the number of bills or late requests or late introductions. It may be impossible to legislate efficiency or discipline -- especially for the legislative institution.

Benefits to the Governor

Pro A newly-elected, incoming governor would have about 1 year to develop a budget rather than about 1 month. The current process precludes for 2 years a governor from using his most valuable management tool -- the budget.

Con While a newly-elected governor would have a year to prepare a budget under the new system, the current system places the burden on the outgoing governor who has 4 years of experience. As an outgoing governor, special interests may need less "special attention" in the budget, budget efficiencies might be advocated without fear of intransigence from administrators, and the politics of budgeting could be ignored.

Affect on Gubernatorial Appointments

Pro Having sessions in even-numbered years could have benefits relative to the governor's appointees. Initially, an incoming governor would have more time to recruit "the best and the brightest" for his cabinet. Additionally, newly appointed department heads would have time to become informed about their respective agency and budget. The legislature would also benefit as the Senate should have more time to devote to conducting inquiries of the governor's nominees.

Con Department directors and other gubernatorial appointees could serve for more than a year prior to confirmation by the Senate. Such a term without legislative "advice and consent" could allow an appointee to direct an agency for a significant period of time when, if confirmation had come sooner, the appointee may have not been confirmed. Additionally, by allowing the legislature more time to conduct inquiry about departmental and other nominees, an opportunity could exist for individuals to engage in "witch hunts", whereby gubernatorial nominees could be subject to harassing invasions of their privacy and personal lives. Such inquiry could damage good reputations, but even the threat of such inquiry could result in highly qualified and desirable candidates choosing to not be considered for appointment.

POTENTIAL DRAWBACKS OF THE CHANGE

1. Change itself may be the most prominent drawback! It might seem absurd, but the legislature as an institution is insistently reluctant to change--especially change for itself. Experience suggests then very few legislators believe that the legislative process runs as efficiently or as effectively as possible, yet there is an inexplicable reluctance to change it. It is almost as if a known quantity, even though it's undesirable, is perceived as better than an unknown quantity, even if it promises improvement.
2. Imprecision of cost might be a drawback. There is no way to accurately ascertain the cost of moving the session from the odd-numbered year to the even-numbered year. Unquestionably, a cost difference of even \$100,000 must be considered. However, the cost of running a legislative session -- \pm \$4.5 million -- is less than 2 tenths of 1 percent of total biennial expenditures, and about only one-half of 1 percent of total biennial general fund expenditures. Bottom line: the legislature does not spend very much of the state's resources to conduct its business -- and won't spend very much if it meets in even-numbered years!
3. The process will require the legislature to meet for 3 years in a row. (Actually, the legislature will meet every year, although the odd-numbered year meeting will be organizational only.) With even only a modicum of discipline, however, the session in 1998 could be limited to a very few subjects, among which should be a budget for FY 2000. The 2000 legislature would then budget biennially for FY 2001 & 2002, and so forth.
4. There may be no real drawbacks -- but only if the legislature acts responsibly and with more discipline than it has shown heretofore! One argument that can and probably will be made is that this is "change" and change is not needed. The question to ask then is: "Does the current process run as efficiently and effectively as it possibly can?" If the answer is "yes," then there is no reason for the bills. If the answer is "no," then some type of change should be considered.... Why allow the process to continue to work ineffectively and inefficiently?! These bills may not guarantee effectiveness, but they certainly allow for it much more so than the current process.

Also, for every reason that is proffered that makes even-numbered year sessions a good idea, the reason can be turned around making the prospects sound bad -- and for some, actually be bad....

POTENTIAL QUESTIONS ABOUT THE CHANGE

- Question 1. What will the legislature do during the 1998 session?
- An answer. Whatever it wants to do. However, the only real business that must be addressed is the FY 2000 budget. The 1998 session could be approached as if it were a focused, budget-oriented special session.
- Question 2. How much will it cost to convert to even-numbered year sessions?
- An answer. It will cost something to conduct the 1998 session, but there may be savings during the 2000 session if the legislature's work can be done more effectively and efficiently -- one of the primary objectives of the bills.
- Question 3. How will even-numbered year sessions affect elections, especially primaries?
- An answer. Elections will be affected as determined most appropriate by the 2000 legislature (although that could be one subject of the 1997 or 1998 legislature). The current elections processes can work as they exist, but some legislators might feel inconvenienced or at a disadvantage from an opponent under current law. Primary election dates, filing deadlines, and so forth can certainly be dealt with in either the 1997 or 1998 session.
- Question 4. If HB 273 is adopted, doesn't that return the state to annual sessions?
- An answer. Not really. While the members of the legislature will meet in the odd-numbered year with the members and organize, there is no provision in HB 273 that allows the legislature to "convene". However, when the legislature convenes under HB 273 in the even-numbered year to conduct general business, the legislature will still be limited by Art. V, section 6 of the Constitution to 90 days of session in the even-numbered year. There is no change in the 90-session limit -- only a change from an odd-numbered year process to an even-numbered year process. Evidence, such as letters to the editor, suggest that the public wants more efficiency from the legislature and better accountability. These bills accomplish both!

POTENTIAL QUESTIONS ABOUT THE CHANGE

(continued)

Question 5. Won't this change give the legislature more opportunity to make more laws and spend more money?

An answer. No. There is no real limit on what the legislature can do now. The change will allow the people back home to participate in the process more easily. Additionally, elections will be held 6 months after a session instead of 18 months after a session. That means that if your legislator is not doing the job you want, you'll have the opportunity to vote him or her out of office much sooner! Not only is the public given better opportunity to participate in the process, the voters have a better opportunity to respond at the ballot box. This is a win-win situation!

Question 6. How does this bill fit with term limits?

An answer. With the mandate that there be greater turnover amongst legislators, delaying the regular legislative session until the second year of a term, will allow the novice legislator to become more familiar with the process before being subjected to the pressures of a regular session.

SPECIAL SESSIONS OVER THE PAST DECADE

Special Session	Cost
11-93	\$737,173
7-92	\$524,886
5-90	\$202,340
6-89	\$606,454
6-86	\$831,594
3-86	\$266,422
6-85	\$ 46,338
12-83	\$295,000
6-82	\$233,000
11-81	<u>\$420,000</u>
	\$4,263,207

KUFM COMMENTARY
Stan Bradshaw
April 12, 1993

Having spent the last three and a half months lobbying in the legislature, I want to talk about the legislative process, what's wrong with it, and about one good idea to address some of the problems that appears to be wrecked on the shoals of politics.

If every person who votes in Montana could spend a week at the legislature watching committee hearings and activity and watching legislative debates, my bet is that by far the majority of voters would be horrified by what they saw. In fact we might be sorely tempted to suggest that we do all our legislating through the initiative process. The making of law, like the making of sausage, is truly an ugly thing to behold.

So what's so horrifying about the process? Well, after about day two, the process is sort of like a runaway train...without the tracks. Decision is guided less by informed, deliberative thinking than by partisan dogma, bias, blind faith, and ignorance.

At this point the easy, and cheap, shot would be to indict the individual legislators. It would also be the wrong shot. By and large, the people who we elect to represent us are well intentioned, and hard working. The problem is with the process itself.

By way of illustration, I wonder how many people listening to this commentary are conversant with the finer points of school equalization, workers compensation, educational funding, environmental policy, or tax policy, to name just a few of the topics. My guess is that only a few of you have detailed knowledge of any of

these topics, and then that knowledge probably covers only one of them.

Well, most legislators don't come to the session knowing much about these things either. Our legislature is a mozaic of farmers, shopkeepers, teachers, carpenters, lawyers, and so on. And, in most cases, nothing in their experience prepares them for what hits them when they get to the legislature.

In 90 days, they have to consider well in excess of a thousand or so bills covering the issues I described above, and a lot more. They'll be pulled every which way by lobbyists and interested citizens, each trying to press their own perspective on them. The pace is frantic and relentless and completely inimical any kind of thoughtful, deliberative discussion. The task of simply reading a thousand-plus bills, let alone thinking about them or understanding them, is nearly out of reach. But, as luck would have it, this is the approach mandated by our constitution.

So what to do about it? Well, changing the constitution would be a good start. But how?

There are a couple of approaches that get tossed around fairly routinely. And, they rightly get routinely rejected.

The first is the idea of annual sessions. There is a persistent conviction among some that if we did this every year we'd get better at it. I doubt it. Instead, we'd just expose ourselves to this madness twice as often. States that take that approach seem to have all the problems I have described here.

The other idea that one hears frequently is that of a full time, professional legislature. No thanks. You only need to look at Congress to see how well that works.

It may well be that there is no better system than what we have, and that the problems that I describe simply represent the frailty of any human endeavor, especially those that embody our attempts at self-government. On the other hand, we don't even have the chance under the existing system to fine tune that process and try to bring a little more sanity to it.

During the first half of the session, there was a faint hope of nudging the process a little more towards a deliberative, rational approach. Rep. Larry Grinde, of Lewistown, sponsored HB 176, which was deceptively simple. HB 176 proposed a constitutional initiative to change the legislative session from odd-number years to even numbered years. On its face, that doesn't seem like much. But in fact, this simple amendment would have opened the way for a completely different approach.

By holding the session in even numbered years, the legislature could hold a brief special session in the odd-number year (right after legislative elections, elect its officers, submit bill-draft requests, and provide for the introduction of bills during the off-year, with plenty of time for legislators and the public to digest them and understand them. In short, to deliberate on them. Would this system be fool-proof? No, but it would take away one impediment to a rational legislative process, and at least provide legislators the opportunity to get better educated.

Now, when a bill proposes a constitutional ballot initiative, it needs two-thirds of the vote of the entire legislature -- one hundred votes. HB 176 got 97 votes in the house alone. This means it only needed three votes in the Senate. So it should have been a done deal in the Senate, right? Wrong. The Senate, in its wisdom, amended the

bill into something likely to be totally unacceptable to Rep. Grinde. As a result, its chances of being amended to its original form and eventually passed are remote.

So why did the Senate amend it? Don't ask me. Ask your Senator. Better yet, come and spend a day or so watching this process (we've got two weeks left), let the process wash over you, maybe talk to Rep. Grinde about his ideas, and then ask your Senator. Let them be accountable for their actions. Accountability... Now there's a novel concept... Any bets on passing that idea into law?

The Montana Standard, Butte, Friday, March 12, 1993

Opinion, comment

~~(3/12 standard)~~

Even-year sessions

Changing from odd to even might make government better

The long, hard campaign ends, the election is held. Montana's newly elected and re-elected lawmakers get some rest, then plan carefully and thoughtfully for the next session of the Legislature. The session is orderly, harmonious and successful.

Just kidding.

What happens is that the campaign ends, the election is held, and the legislators rush into session 60 days later. Their nerves might still be frazzled from the campaign and electoral results might have made their legislative plans and campaign promises lessenable. But because the Legislature meets in odd-numbered years, they've got just two months to catch their breath, plan for the session, have bills drafted and (perhaps most important of all) find a place to rent in Helena.

House Majority Leader Larry Grinde, R-Lewistown, thinks there's a better way. That way, he believes, is to change the Legislature's regular sessions from odd-numbered to even-numbered years.

As Grinde explains it, it would work like this: After the November elections, the legislators take office, organize and adopt rules of procedure. All that should take just

a few days. For the remainder of the post-election, odd-numbered year, committees meet for more orderly discussion of issues, legislation is drafted and the legislative agenda is set. "Good planning allows for good process," Grinde says. "Sufficient time for consideration allows for greater participation and better government."

Presumably, when the session does convene, 14 months after the election, it really would help produce better government.

The idea makes so much sense that one wonders why no one thought of it before. Or at least, tried to do anything about it. Grinde is trying to bring about the change with his House Bill 176, which would require a constitutional amendment. Ninety-five of the 100 House members approved the bill, which was presented in the Senate yesterday. The Senate, we expect, will give it the remainder of the support it needs to put it on the 1994 ballot.

The change would not produce flawless government. Nothing would, including the politically impractical suggestions that Montana adopt a unicameral Legislature, a smaller Legislature, and so forth.

But we think it would help, and at virtually no extra cost.

Even-year sessions a good idea

A proposed constitutional amendment that would require the Legislature to meet in even-numbered years sailed through the House 93-7 Monday and needs only seven votes in the Senate to qualify for the 1994 general election ballot. (Constitutional amendments must receive approval of 100 of the 150 legislators to qualify for the ballot.)

The support for House Bill 176, sponsored by Rep. Larry Grinde, R-Lovington, is surprising because it represents a radical change.

AN IR VIEW

If the amendment is placed on the ballot and approved by the voters, members of the 54th Legislature would meet for 90 days in 1995. They would return for a regular session in January 1996. According to Grinde's scenario,

the '96 session could be focused on adopting a budget for fiscal year 1996. The fact that legislators will be running for re-election a few months after the '96 session ends could persuade them to keep the session short.

The Legislature would then meet in January 1997 for an organizational session that would last a week or less. Rules would be adopted, standing committees appointed and then the Legislature would adjourn.

Lawmakers would then have almost a year to have their bills researched and written before the 1998 session convened. Legislation would have to be introduced about three months before the start of the '98 session. This will allow hearings to be scheduled and advertised well in advance of the '98 session.

Committees also could conduct hearings throughout the state on major bills prior to the start of the session.

There are other advantages.

The governor will have almost a year to prepare a budget. The governor also will have more time to appoint department directors. Currently, a new governor basically inherits the budget of the outgoing governor. He or she has only about seven weeks to modify the outgoing governor's budget and put together a cabinet.

Even-year sessions would also make legislators more accountable because they will be running for re-election a few months after the session adjourns instead of 14 or 15 months after a session, as is now the case.

We think Grinde's bill should be placed on the ballot so it can be thoroughly debated by legislators and the public.

DOONESBURY

X-3/8

MISSOULIAN EDITORIAL

Give 'em an even break

Legislators could count on some even-year benefits

Any number of things could be done to make Montana's Legislature perform better, including institution of annual sessions, merging the House and Senate into a single chamber, and reducing the number of legislators.

Of all the constructive things that could be done, however, few would be as simple as adopting House Majority Leader Larry Grinde's proposal to convene the Legislature in even-numbered years instead of odd-numbered years.

That one change could work wonders.

Legislative sessions now convene in odd-numbered years. What happens is that legislators and governors are elected in November on even-numbered years, then thrown into the maelstrom two months later. Convening the Legislature on even-numbered years instead would give newly elected officials more than a year to prepare.

The change would be especially useful if the year between an election and legislative session were used to draft and circulate bills, organize political party agendas, and teach newly elected

lawmakers the ropes. Moving legislative sessions to even-numbered years will make all the more sense when the provisions of the term limits approved by voters last fall kick in and there's more turnover in the Legislature.

Even-year sessions won't solve all problems, of course. For one thing, there's still the problem of having to write two-year budgets requiring lawmakers and the governor to do the impossible — accurately forecast revenue and expenses 2½ years into the future. (As Rep. Mike Kadas, D-Missoula, points out, a 1 percent error in writing the budget can translate into a \$60 million deficit.) Montanans, understandably dubious about having the Legislature in session more than they now are, have resisted proposals to formally institute annual sessions, even though the need to adjust the budget midway through the biennium has made special sessions a regular occurrence.

In addition to moving to even-year sessions, it would be interesting to see what good could come from the governor making a practice of calling a special session every other January simply to revise the budget. That would give lawmakers a chance to freshen their budget figures, rather than simply rush to Helena to clean up the mess when their biennial budgets fall apart.

Amendments to House Bill No. 273
First Reading Copy

For the Committee on State Administration

Prepared by Greg Petesch
January 24, 1995

1. Title, line 6.

Strike: "AN"

Insert: "A DELAYED"

2. Page 1, line 22.

Strike: "1997"

Insert: "1998"

EXHIBIT for
DATE J-24-95
HB 273



4

Committee on Public Employee Retirement Systems

53rd Montana Legislature

Room 138 State Capitol
Helena, MT 59620-1706
(406) 444-3064
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ATTORNEY

REPORT ON LC 537

Purpose of Report

The Committee on Public Employee Retirement Systems (CPERS) is required by law (Ch. 549, L. 1993) to report to the Legislature on the fiscal and policy implications of each retirement proposal it reviews and to make recommendations for Legislative action. The Committee's recommendations do not constitute formal Legislative action on a bill and the Committee may not prevent a retirement bill from being introduced. *This report applies to the proposal as presented to CPERS, not to any changes made subsequent to the adoption of this report.* This report is informational and its purpose is to promote fair and consistent retirement policy for Montana's public employees.

Proposal Summary

As presented for the Committee's final action, this bill raised from 600 hours to 640 hours the current limit on the number of hours that a member who is receiving a retirement benefit under the Public Employees' Retirement System (PERS) may work in a PERS-covered position before having to take a reduction in the member's retirement benefit. The bill also amended the provision limiting the amount that a retiree over age 65 could earn so that the limitation is tied to the member's annualized final average salary adjusted for inflation.

Issue Summary

Currently, the retirement allowance of a retired PERS member who is under 65 years of age will temporarily be reduced \$1 for every \$1 earned after the member works 600 hours in the calendar year if the member is working as a public employee in a position covered by PERS.

A retiree who is 65 years of age or more is either subject to the 600-hour limitation, or may earn no more than 50% of the retiree's annual retirement benefit before receiving a \$1 for \$1 reduction in the retirement benefit, whichever limitation provides the most compensation to the retiree. Benefits are not adjusted for inflation so a retiree over age 65 is frozen in how much money he or she may earn before the retirement benefit is reduced.

EXHIBIT *five*
DATE *1-25-95*
HB _____

Policy Considerations

Retiree work limitations are intended to protect current and future public employees who would otherwise be competing with a retiree who is also receiving a retirement benefit. However, current law does not provide that the work limitations are automatically adjusted for inflation.

Fiscal Considerations

A position vacated by the retirement of a public employee may be filled by a new employee at a lesser salary. This represents a cost savings to the government employer. However, the employer also loses the retiree's experience. If retirees return to work at their previous salary and continue to receive a retirement benefit, there is a greater cost to the government employer.

Effects on Other Systems

This bill affects only PERS. No other statewide public retirement systems impose similar work limitations on retirees.

Committee Recommendations

Amendments: Exempt PERS retirees age 70 1/2 and older from any work limitations (adopted unanimously)

Recommended Action: DO PASS AS AMENDED (adopted unanimously)

Note: This report was prepared by Sheri Heffelfinger, Researcher, Montana Legislative Council based on the minutes of the December 1-2, 1994, and December 29, 1994, CPERS meetings.

**HOUSE OF REPRESENTATIVES
VISITORS REGISTER**

State Administration - COMMITTEE DATE January 24, 1995
BILL NO. HB 273 SPONSOR(S) Grind

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HOUSE OF REPRESENTATIVES
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State Administration

BILL NO. HB 275 SPONSOR(S) Wiseman

DATE January 24, 1995

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
JOHN CADBY	MT BANKERS ASSN	✓	
GEORGE BENNETT	MT BANKERS ASSN	✓	
David Senn	TRS	✓	
Tom Crosser	Auditn	✓	
Bill LEARY	MT Bankers Assn	✓	
LINDA KING	PERD	✓	

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**HOUSE OF REPRESENTATIVES
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State Administration

BILL NO. HB 298 SPONSOR(S) Galvin

DATE January 24, 1995

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jerry Ousill	mt state Building trades	X	

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