

## **MINUTES**

### **MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DON HARGROVE**, on March 18, 1997, at 10:00 a.m., in Room 331.

#### **ROLL CALL**

##### **Members Present:**

Sen. Don Hargrove, Chairman (R)  
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)  
Sen. Vivian M. Brooke (D)  
Sen. Delwyn Gage (R)  
Sen. Fred Thomas (R)  
Sen. Bill Wilson (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** David Niss, Legislative Services Division  
Mary Morris, Committee Secretary

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

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 170, 3/13/97  
Executive Action: HB 90, BCI; HB 91, BCI;  
HB 496, BCI; SR 15, A

#### **HEARING ON HB 170**

**Sponsor:** REP. CHRIS AHNER, HD 51, HELENA

**Proponents:** Linda King, Public Employees Retirement Board  
Tom Schneider, President, PEPSCO  
Tom Bilodeau, Research Director, Montana Education Association, and Secretary/Treasurer of PEPSCO  
Terry Minow, Montana Federation of Teachers, State Employees & Health Care Employees  
Verner Bertelsen, Montana Senior Citizens Association  
Pat Clinch, Montana State Council of Professional Fire Fighters, Montana State Fireman's Association  
Warren Brass, Chairman, Legislative Committee of AMPRE

**Proponents** Terry Teichroe, President, Public Employees  
**(continued):** Retirement Board  
Mike Noble, Employee, Department of Revenue  
John Denherder, East Helena

**Opening Statement by Sponsor:**

REP. CHRIS AHNER, HD 51, HELENA, stated that, from the early 1970's to the present, there have been ad hoc windfalls "leap-frogging" among the retirement systems with the employer carrying the costs. The employer being the state taxpayer. HB 170 will pay a modest 1.5% increase in retirement benefits to over 16,000 city/county school district and state public retirees and will allow more than 30,000 active employees to begin putting away their own contributions to prefund those 1.5% increases they will receive when they retire. More than 85% of the costs will be paid by funding and existing liability "swaps" within and between the systems - 6.5% of the costs will be paid by employee's contributions to prefund their own post-retirement benefit increases - 7.6% will be paid by employer contribution increases. The State General Fund share will be less than 3.2% of the cost. "Swaps" of current state and local government obligations to fund windfall benefits in the systems, will pay 44% of the total out-of-pocket costs of the PERS Guaranteed Annual Benefit Adjustments (GABA). Those windfall benefits are what caused the "leap-frogging" of benefits in systems now. We can't just get rid of them, but we can exchange them for the GABA. It's about \$7 million in the next biennium. We're already on the hook to pay for a good part of GABA, so this is a solution to that problem. Without GABA, we would spend about \$1.2 million from the State General Fund during the next biennium. Just to fix the actuarial funding required for the judges, the police, and the firefighters and that amount will increase annually for 30 years. What we need to fund the judges retirement system is approximately \$859,000. What we have for the seven retirement systems with GABA is \$974,000 and that fixes the judges as well. The GABA remedies those problems at less cost plus provides post retirement benefits for all current and future retirees. GABA will cost less, completely eliminates the unfunded liabilities of the judges system and substantially reduces those unfunded liabilities in the municipal police and firefighters systems. The remaining cost to GABA for current retirees is less than 1/5 of the additional state income taxes paid each year by the current retirees. Those public retirees will be funding their own benefit increases with the taxes they now pay on their benefits. GABA will not make it much harder to convert from the PERS to a defined contribution plan in the future should the State decide to go in that direction. The legislature has not already decided to convert to this plan and HB 90 does not direct such a provision. This is an obligation that the State has and cannot get off the hook. GABA is similar to a mortgage. We in the past have done this every two years, so it's like remortgaging your house every two years. First it's taking out

the 26 year mortgage where it will eventually pay for itself. The Governor supports HB 170. **SPEAKER RON MERCER** indicated that he tried very hard to find fault with it and could not. I encourage you to support HB 170.

**Proponents' Testimony:**

**Linda King, Public Employees' Retirement Board (PERB)**, supplied handouts and explains: GUARANTEED ANNUAL BENEFIT ADJUSTMENT (GABA) Legislation Proposed by the Public Employees' Retirement Board February 1997 (EXHIBIT #1) and testimony (EXHIBIT #2).

**Tom Schneider, President, PEPSCO**, explains PEPSCO is a coalition of organizations which include the Montana Education Association, the Association of Montana Retired Public Employees, the Montana Public Employees' Association, the Montana Retired Teachers and School Personnel Association, the Montana Federation of Teachers and State Employees, and the American Federation of State County and Municipal Employees. We are a coalition of people who started six years ago to address the situation that occurred when the legislature, because of a U.S. Supreme Court decision, decided that retired state employees would have to pay taxes on their benefits. Something they had been told for a total lifetime would never occur. When SB 226 passed, it also included a provision which we construed to be a make-over which simply said that the retirees would get a payment of 2.5% to offset the fact that they would have to pay taxes that they were promised they wouldn't have to pay. A year later, the Montana Supreme Court ruled that provision was unconstitutional and the retirees lost the payment. Ultimately what happened is, now we tax the employees but they don't receive anything in return. We approached this session of the legislature basically with two different ideas. One was HB 324, which simply would have re-instituted a new make-over provision, not a direct reimbursement but it would have been a permanent retirement increase based on the taxes that were being paid. That had an annual cost of about \$7 million, a biennial cost of \$14 million. The House didn't seem to like that approach too much, so they excepted our other approach which is HB 170 - the GABA proposal from two years ago. **Linda King (PERB)** has adequately and fully explained GABA. From my standpoint, I do have to tell you that some of these compromises to some of these benefits are not without pain. We tried to get the House Committee to set back the time period for one year to buy the one-for-five so it would allow people an extra year to buy. We tried on the Floor to set that back for six months, obviously both of those were not acceptable in the House. They are not included in the bill, so employees in that situation are now faced with buying that service between now and July 1. Quite frankly, they still do have time to buy the service at the lower rate and we will make sure they are notified of that and have the opportunity to do that. The one thing **Linda King (PERB)** did not mention is that employees hired after 1989 currently do not have the right to buy one-for-five service and this bill will allow them to buy the one-for-five service.

Although we may have added some costs to some people who have waited, this bill will now allow people who currently cannot buy one-for-five service to buy the service. We would have liked to have seen a little extra time but at this point, we simply do not want to see this bill amended and go back to the House again. I would ask that you concur in HB 170. The next twenty years, if we look at this bill relative to doing ad hoc increases, we'll save millions of dollars and I think it's to the benefit of everyone.

**Tom Bilodeau, Research Director, Montana Education Association, and Secretary/Treasurer, PEPSCO (MEA & PEPSCO),** supplies (EXHIBIT #3) PERS GUARANTEED ANNUAL BENEFIT ADJUSTMENTS (GABA) and explains. He closes stating this is a very good bill and MEA and PEPSCO urge a Do Pass vote without amendment at the earliest possible date.

**Terry Minow, Montana Federation of Teachers, State Employees and Health Care Employees (MFT/MFSE),** states we strongly support HB 170. This bill is absolutely crucial to maintaining an adequate level of retirement of benefits for our members. Members who work in the public schools as classified staff, members who work in the vo-techs as classified staff, members who work for the State and who work for the Counties and nursing homes. We ask that you give HB 170 a speedy do pass recommendation as it stands today.

**Verner Bertelsen, Montana Senior Citizens' Association,** states we stand in strong support of HB 170. As I said in the hearing before the House Committee, I don't think anyone of you can sit here and say that the Public Employees in the State of Montana have gotten a fair shake over the past few years in their retirements. They certainly have not met or anywhere near met the cost of living increase. This is an essential piece of legislation and besides that, it's an excellent piece of legislation. You have been given a beautiful package. It helps you do a lot of things very, very easily as far as state financing is concerned. The only thought I'd like to add to this is, I hope you don't go home feeling completely happy if you don't end-up doing something for the teachers in the State of Montana.

**Pat Clinch, Montana State Council of Professional Firefighters and The Montana State Firemans' Association,** states Montana's professional firefighters are covered by the Firefighters' Unified Retirement System and those covered by Public Employees' Retirement System do support the provisions of HB 170. We feel that by passing this bill, you will eliminate future costly ad hoc retirement adjustments. If this bill had been enacted years ago, Public Employee Retirees would not have to come to the legislature and beg for retirement increase. We need this bill for our retired members today and our current members in the future.

**{Tape: 1; Side: 1; Approx. Time: 10:49 a.m.; Comments: End of Tape 1, Side A.}**

**Warren Brass, Chairman, Legislative Committee of AMPRE**, states he represents 3,600 retired state employees and they see this bill simply as a fairness issue. We have a 3% inflation rate in this country at this time, 2.9% according to social security. We are asking for half of that - 1.5%. We certainly don't see this as an end to all things but certainly this would be a great help to the retired state employees. One other issue that has not come up at this time is, most of these people have state health insurance when they retire. You in the legislature fund that for the current employees. That's projected to be \$20 this coming year, starting September 1; \$25 in the following year on September 1. The state retirees get nothing so we are out another \$20 the first year and \$25 the second year. An average of \$300 of state retirement which takes a very large percentage. AMPRE and would I appreciate your vote on HB 170.

**Terry Teichrow, President, Public Employees' Retirement Board**, explains that when we first started talking about this issue last year, I guess you would call it developing a strategy of how we were going to get a bill in front of you successfully that we had lost the session before. We heard sadly from individuals that tell us because of their particular situation of how they retired or what level they retired at, they have never had an increase in their retirement at all. Many people are in that situation and it became a priority of the Board's to try and pass a bill. We look very critical at those not funded and we don't like to support them and generally don't support them. But we listened to the individuals that have come to us that have asked us to support this bill again this year. I would just pass on to you for their sake and from the other members of the board, that you make this issue a priority rather than a back burner.

**Mike Noble, Employee of the Department of Revenue (DOR)**, states he is testifying on his own behalf and on his own time. He further states he is not in opposition to the bill but would like the Committee's attention to a concern he has regarding military service under Section 10. See testimony (**EXHIBIT #4**). **Mr. Noble's** brother-in-law, **Leonard DeVore** from Big Arm, Montana, requested that he give the Committee his written testimony at this time (**EXHIBIT #5**).

**John Denherder, East Helena**, declares that he is a veteran of three wartime eras, three uniform services, a disabled American veteran, a professional veteran, and a military retiree. He states that he would gladly relinquish any rights to benefits to see this GABA bill pass.

**Questions From Committee Members and Responses:**

**SEN. KEN MESAROS**, inquires about one of the handouts by **Ms. King (PERB)**. There are some key words concerning "swaps" and "use of

excess system funding." Any time you use "swaps" there are some winners and losers. Can you briefly review that again? **Ms. King (PERB)** explains that what happens in the "swaps" and I'll address the issue of **Mr. Noble's**. Military time, by paying the full actuarial cost, could in fact cost an individual more, especially if they waited right until retirement. However, when you calculate what their return is on their investment, for purchasing that service now, and what it would be with GABA, increasing their benefit every year after three years of retirement by another 1.5%, their yield on their investment actually goes up. So no one loses really on that "swap." If it's twice as much as he wanted to invest, he could buy half as much and still get a higher yield than they would without GABA. So in terms of the "swaps" in PERS or the other systems, because of GABA their return actually goes up, so they don't actually lose.

**SEN. MESAROS** questions further about the concern of **Mr. Noble (DOR)** with the military buy back, "how much would that impact this?" **Ms. King (PERB)** supplies (EXHIBIT #6) Cost of "Free Military Service" in PERS and explains.

**SEN. MESAROS** points out that one of the Board items is "use of excess system funding" and asks that it be explained. **Ms. King (PERB)** explains that those systems at one time had unfunded liabilities that were being amortized with an employer contribution. When the unfunded liabilities were paid off, the legislature never changed that contribution rate down, so they have been actually prefunding something for themselves with what they've been collecting. Basically we're utilizing the prefund and continue at the same level to fund GABA in those systems.

**SEN. MESAROS** inquires about the extended amortization period on the PERS extended to 26 years and the police officers to 17.7 years. He states "That's where you're going TO but where is it coming from?" **Ms. King (PERB)** states the current amortization period in PERS is 11 and two years ago it was 16. So if the stock markets continue doing what they've been doing and payrolls not, we probably can amortize five years off of 26 in the next two years also. You're suppose to amortize it year for year, but if we do really well in the markets, we amortize five years in a two year period. So we're going up to 26. Now if we amortize it year for year, if we continue to have a run in the market, we'll probably be less than 26 years. I cannot tell you exactly where the police officers are at right now.

**SEN. FRED THOMAS** asks if, over the last 23 years, the change in annual benefits was a flat 1.5% a year, and would this have grown to a greater number or to a lesser number than going from 1993 to \$3713. **Mr. Bilodeau (MEA)** answers we ran these actually two years ago and what was interesting was comparing it to inflation; purchasing power loss. It clearly showed you'd still lose to inflation but you'd use half as much as what we have actually experienced. Roughly speaking, if you have a 1.5% annual

increase each year over a 22 year period, you're going to be increasing the base benefit by something around 45% versus 67%. So it would be less over that extended period of time. What you would be building into the system, however, through this proposal is a funding mechanism and from the State's prospective, you'd be building into the system a way for paying a guaranteed benefit over time and it's actually another way of helping with the savings that the GABA compared to an ad-hoc increase where the state consumes all of the costs for any ad-hoc increase. The other thing that GABA does is of course, it provides some certainty to the employee and the retiree. They can actually begin to make some sort of calculation as to what their benefit will be this year and a few years down the road. It makes planning much easier.

**SEN. THOMAS** questions that there is a very small cost to the bill. It has been indicated that it is paid in large part by off setting revenues. Is that a one time deal and will the future cost be more? **Ms. King (PERB)** answers "no, the fully phased-in cost to the General Fund and to everyone, comes in the second biennium and at which point it's \$1.5 million." All those "swaps" are forever and so the savings and the employees contributions will be forever. So the General Fund fully phased in costs to all local government of .1% of salary that occurs in the first year of the second biennium. If they grow more slowly, the costs will be less. **SEN. THOMAS** asks then how much the first year? **Ms. King (PERD)** states you have revenues too that come in so the net for the General Fund is \$947,000 combined. You take the expenditures plus the additional revenues because District Court fees are increasing General Fund revenues. **SEN. THOMAS** asks where are the one time monies generated in this first FY that aren't in the next FY? **Ms. King (PERD)** states there are no one time monies. These are all permanent.

**SEN. VIVIAN BROOKE** refers to HB 170, on Page 25, Lines 26 through 28. She states, I see that you've increased in this bill the marriage license fee by \$9.60. **Ms. King (PERB)** replies that they aren't making any changes in that, instead of a portion of it going to the Judges' Retirement and a portion to the General Fund, it's all going to the General Fund. It doesn't increase any license fees and it makes no change. **SEN. BROOKE** asks where in the bill is it deleted from going to the retirement? **Ms. King (PERB)** referred to Page 25, Line 25, and Page 26, Line 19, and pointed out that there are several places within the bill itself where fees that would normally go to the retirement systems are now deposited into the General Fund and that's on the fiscal note where you see the General Fund revenue increases.

*{Tape: 1; Side: 2; Approx. Time Count: 11:14; Comments: None.}*

**CHAIRMAN HARGROVE** asks about HB 527 on the firefighters. The fiscal note says ad hoc permanent post retirement increased for retired firefighters as if 1.5% has been in effect. Does that mean that HB 527 will be not necessary if GABA is enacted? **Ms.**

**King (PERB)** states it is a completely separate issue. What they are asking for in their bill is a one-time increase and that increase amount on that one-time they would look at how long they've been retired. If they've been retired for 15 years for instance, look at what their benefit would have increased to had GABA been in effect. They would have gotten 1.5% for 13 more years and that would be a one-time ad hoc. GABA will only increase these peoples benefits by 1.5% this year and the 1.5% next year and the year after.

**CHAIRMAN HARGROVE** asks what is HB 195? **Ms. King (PERB)** states it's a bill that provides that the state pay certain District Court fees that have not been paid before. It's a bill that had nothing to do with us but the District Courts we're feeling that the state was getting a free ride with all these prefilings and so they instituted in that bill (and it's in the Senate now for hearing) to have the State actually pay filing fees. The District Courts will get additional money from that and of course under GABA all the district court fees that come to the state now going to the General Fund will increase General Fund revenues. Without this bill it would go to the Judges' Retirement system. **CHAIRMAN HARGROVE** states that's worth almost \$400,000 to GABA, is that correct? **Ms. King (PERB)** answers "that is correct."

**SEN. THOMAS** comments he did a quick calculation and found that if we were to go into the last 22 years on this chart from 1993 to \$3,700, that in essence to accomplish on an annual compounded basis would have been about a 2.85% adjustment each year. In comparing that to the 1.5% proposed, certainly there were some heavy years of inflation in there in the 1980's but yet the purchasing value went from 100% down to 33% over that same time period. If we were to keep up with the mediocre pace we have over that time period, it still would be 2.85% versus 1.5%. **Ms. King (PERB)** replies she agrees. There was some HUGE inflation periods that we certainly are not projecting to occur again and I don't think this economy is going to allow something like that to happen again. In reality, assuming that you are going to be looking at what most economists look at - 3% or less inflation for the future. This will do much better for people. We don't anticipate this will, for a fact, make up for inflation, but it will be much better than what has happened in the past. It only gets more and more expensive to do ad hocs and these were ALL ad hocs. It's incredibly important to get something each year to count on, while they may have averaged that much over time. You'll note that there was quite a bit of pain before there was any remedy and it was extremely expensive. We tried to match the real needs, the anticipation of much more managed inflation in the future in our economy, with what could be afforded. Yes, we could calculate at 3%. If it's going to average 3% it should be 3% GABA. But the costs go up dramatically and we didn't believe the State could afford that.

*{Tape: 1; Side: 2; Approx. Time Count: 11:22; Comments: None.}*



**CHAIRMAN HARGROVE** questions the optional aspects of HB 170. Certain individuals have options depending on whether they are in the system before July 1 or after July 1 and do the different retirement systems (firemans, judges, etc.) have various options as to when or if they want to be a part of this? **Ms. King (PERB)** answers that in certain systems, GABA may not be an increase for all members (police, fireman, highway patrol and judges). Maybe what they have now is better for them than GABA. They will have an option and they will have until December 31, 1997, to exercise that option and we will work with individuals so that they can make a good choice. Any new hire after July 1, that will be a part of their contract of employment so they won't have an option. In PERS, sheriffs and game wardens have no options because it is a benefit for everyone.

**Ms. King (PERB)** informs the Committee that **SEN. TOM BECK** has agreed to carry the bill on the Floor.

Closing by Sponsor:

**REP. AHNER** closes stating this is a very unique package and it will yield a better return. The military buy-back will yield a 1.7% increase and they have to pay for it. GABA is a 1.5% increase and they don't have to pay out of their own pocket. If we would have done this 25 years ago, it would be paid for. I encourage you to think of our children and future employees. I recommend that you give it a positive vote.

*{Tape: 1; Side: B; Approx. Time Count: 11:24; Comments: End of Tape 1, Side B.}*

**CHAIRMAN HARGROVE** expresses that **David Niss, Legislative Services Division**, did an excellent job on **(EXHIBIT #7) REPORT ON HB 170**. He encourages the Committee to review the report before Executive Action on the bill.

**CHAIRMAN HARGROVE** requests Committee Secretary to obtain **SEN. BILL WILSON's** vote for all Executive Action.

EXECUTIVE ACTION ON SR 15

Motion/Vote: **CHAIRMAN HARGROVE** moved that **SR 15 BE ADOPTED**.  
The motion **CARRIES UNANIMOUSLY**.

EXECUTIVE ACTION ON HB 496

Motion: **SEN. THOMAS** MOVED **HB 496 BE CONCURRED IN**.

Discussion:

**SEN. BROOKE** states she has a problem with the fact that we are shifting costs. Their wages are so low, that's why the employees are pressuring to get this done. It should be painfully obvious to all of us that given the option for whether you want to eat

and pay your child care, or save for retirement, there's not a whole lot of choices for some of those people who have these jobs. The jobs never pay what they should be paid for and this is a very vital service that hospitals and nursing homes are relying more and more on nurses aides. They are giving them more responsibilities so they don't have to spend so much money on nurses. Nurses aides do a huge service in taking care of the patients. The fact is you have all heard that they make \$5.62 an hour and then bump it up to \$5.82 an hour, and if you're working there 14 years maybe you'll be lucky to get \$8 an hour. I challenge any of you to live on that and save for your retirement. I think that's a cop-out by the hospitals and if the States involved at all, we're going to be paying for it. Another point I'd like to make is, most of these positions are held by women and women have a longer life-span than men. If you've ever visited a nursing home recently, you'll find that 80% of the population is women and that's being paid by Medicaid if they don't have retirement and even a retirement would not pay for that type of care. Retirement funds are used to keep people independent in their retirement years and this is a cop-out. It's putting the blame on the fact that these employees want this...of course they do. They want to pay for their food, child care and rent with that little extra bit of income.

**CHAIRMAN HARGROVE** comments that everything **SEN. BROOKE** said is true, although, the testimony heard shed light on that one of the major reasons was the tremendous turnover and many of those are young people (students, etc.). If they turnover less than five years, they are virtually giving away money. The toughest group is the single mothers which constitute a part of this and their are some who are just supplementing their income.

**SEN. THOMAS** states that those revenues are then going to subsidize other people's retirements. In that case, I'd rather give that individual the cash. It's not a perfect solution, but it may help some people.

**CHAIRMAN HARGROVE** adds that they do have the option to buy-back once they have proven their status in life and that is good.

**SEN. BROOKE** comments to the statistic of the term (inaudible) where it's very damaging in conducting a good business in areas of social services because it means money for training, new employees, and the consistency and skill that a long-time employee brings to the industry is invaluable.

**SEN. THOMAS** states that it's probably the people that are doing it and for a good reason. Often that's why we hire young men because they are able to do it. In this case, so are they. Young people are able to do this and then move on to something else after they get their degree.

**Vote: THE MOTION ON HB 496 TO BE CONCURRED IN CARRIES UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 90

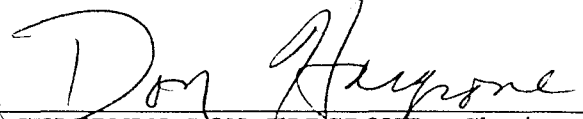
Motion/Vote: SEN. BROOKE MOVES HB 90 BE CONCURRED IN. THE  
MOTION CARRIES UNANIMOUSLY.

EXECUTIVE ACTION ON HB 91

Motion/Vote: SEN. THOMAS MOVES HB 91 BE CONCURRED IN. THE  
MOTION CARRIES UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:54 a.m.



CHAIRMAN DON HARGROVE, Chairman



MARY MORRIS, Secretary



Transcribed By: Valerie Palmer

DH/MM/VP