

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN ALLAN WALTERS**, on January 18, 2001 at 8:00 A.M., in Room 455 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Allan Walters, Chairman (R)  
Rep. Debby Barrett, Vice Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Norma Bixby (D)  
Rep. Dee Brown (R)  
Rep. Donald L. Hedges (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Jent (D)  
Rep. Michelle Lee (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Gay Ann Masolo (R)  
Rep. Douglas Mood (R)  
Rep. Alan Olson (R)  
Rep. Holly Raser (D)  
Rep. Rick Ripley (R)  
Rep. Clarice Schrupf (R)  
Rep. Frank Smith (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Ruthie Padilla, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 281, 1/15/2001; HB 283,  
1/15/2001; HB 287, 1/15/2001  
Executive Action: 204

**HEARING ON HB 281**

**Sponsor:** REPRESENTATIVE MONICA J. LINDEEN, HD 7, HUNTLEY

**Proponents:** Tony Herbert, Information Services Division  
Claudia Clifford, State Auditor's Office  
Leroy Schramm, Montana University Systems

**Opponents:** None

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 0}*

**REPRESENTATIVE MONICA J. LINDEEN, HD 7, HUNTLEY**, stated the bill attempts to set in place the foundation of an information privacy policy for state and local governments who provide a website. The reason for this is due to consumer concerns about privacy and security as far as their information being accessed or sold to third parties for marketing purposes. This bill will require state and local government entities who provide an internet website, to post on their website what their information privacy policies are. To, also, prohibit the collection of personal information for marketing purposes if the individual does not want their personal information sold. There will be an amendment on behalf of the Department of Justice clarifying it will not apply to Federal, State or Local Law Enforcement agencies that are conducting official investigations. Information on privacy notice was submitted. **EXHIBIT(sth14a01)**

**Proponents' Testimony:**

*{Tape : 1; Side : A; Approx. Time Counter : 4.4}*

**Tony Herbert, Information Services Division**, said they are strong advocates of the bill. It makes sense to have some information on the internet to encourage the use of electronic services and transactions. It is important that these issues be put into place so individuals have trust in the work that goes on with the state.

**Claudia Clifford, State Auditor's Office**, said they have a website for their office and are supportive of the bill and the privacy issue. She commented on some small changes they would like to see amended.

**Leroy Schramm, Montana University Systems**, stated they have a number of websites that solicit personal information. Students can register online, apply online, apply for financial aide online, and purchase any college gear or clothing online. They feel this bill is a good idea.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : A; Approx. Time Counter : 12.6}*

**REPRESENTATIVE LEHMAN** stated, when an individual went to renew their license by mail or in the courthouse, on the back of the renewal form you had two choices to allow the county treasurer's office to send your name out to receive mail from unwanted sales people, however you had to mark yes or no. If this bill does pass, will there be something on the website as far as giving out your information to a third party, he asked. **Tony Herbert** replied that is a condition of the bill. It would require web masters for government sites to provide an opportunity to the individual whether or not to give their information to a third party.

**REPRESENTATIVE HEDGES** asked how they plan to implement the statute to the cities, towns and school systems. **REPRESENTATIVE LINDEEN** replied, anytime there is a statute change, people are given notice of that change. Any state or local government who had a website would then post their policies on their website. **REPRESENTATIVE HEDGES** then asked if there would be a penalty imposed or a time limit. **REPRESENTATIVE LINDEEN** replied, the way the bill is currently written, there is not.

**REPRESENTATIVE DELL** stated, when he uses his computer, there are websites that have trails back to his computer and then have all kinds of information about him. He then asked for explanation of how the state will be prevented from doing this. **REPRESENTATIVE LINDEEN** replied the bill does not say this will not be done, this bill simply says if you do have this kind of program on your site, you would need to disclose this is happening and would not be able to use that information if requested not to.

**REPRESENTATIVE RASER** asked if there is a current policy on taking information and does the government make money by selling the information. **Tony Herbert** replied there is certain governmental information that has protection and cannot be used for any other

purposes and there is other that can be used for other information purposes. For example, Drivers Licensing Information with the Department of Justice is made available to insurance companies for certain purposes.

**REPRESENTATIVE HEDGES** asked if this legislation would prevent any University Foundation Programs or any other school's program from sending out informational letters to students who may have graduated or been enrolled in 1979 due to the records maybe being stored electronically. **REPRESENTATIVE LINDEEN** stated she also is a member of the Foundation of Montana State University in Billings and this will not have any effect on that issue at all.

**REPRESENTATIVE LEE** asked if we currently sell information for marketing purposes. **Tony Herbert** replied the selling of information may be happening but he is unaware of specifics.

**REPRESENTATIVE SMITH** stated, when receiving a Commercial Driving License (CDL), the states exchange records by Federal law. If an individual with a CDL receives a DWI in North Dakota it registers in Montana and if you get a speeding ticket in Wyoming it will register in Montana. Will this legislation restrict this in any way, he asked. **REPRESENTATIVE LINDEEN** said she did not think this was related to the current bill, however she would check and get back to him.

**Closing by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 6.7}*

**REPRESENTATIVE LINDEEN** stated this bill is a difficult issue and requires a lot of thought and discussion. It deals with some personal feelings about how we should be handling private information versus the realization of the new way of handling information and data. We all want to try to understand it and protect our own personal and private rights.

**HEARING ON HB 283**

**Sponsor:** **REPRESENTATIVE DICK HAINES, HD 63, MISSOULA**

**Proponents:** **Bill Flyner, Citizen**  
**Gregory Hintz, Missoula County Sheriff's Office**  
**Kathy McGowan, Montana Sheriffs and Peace Officers**  
**Association (MSPOA)**

**Opponents:** **Mike O'Connor, Public Employees Retirement System**  
**Carol Lambert, Public Employees Retirement Board**

**Opening Statement by Sponsor:*****{Tape : 1; Side : B; Approx. Time Counter : 8.4}***

**REPRESENTATIVE DICK HAINES, HD 63, MISSOULA** stated the bill is known for an act allowing a window for Sheriffs who are members of the Public Employees Retirement System (PERS) to transfer to the Sheriffs Retirement System. The Sheriffs Retirement System was enacted in 1974, and at that time officers were allowed to transfer from PERS to the Sheriffs Retirement System with no penalty. Some made that transfer at that time, however, since then there have been several changes over the years. The service time, which started out at 30 years, over the years has dropped down to 25, and then 24 and now it is down to 20 years. In that same time period, over these years, the cost to transfer from PERS to Sheriffs Retirement System is to the point it is no longer in reach for individuals who would like to transfer over. There is a very significant penalty. This bill will allow a window based on contributions in the members 11<sup>th</sup> year of service, however it is still too expensive and still has a penalty. This bill will affect about only 6 officers, therefore the cost to the system is very small, but to the individual is still very significant. He submitted an amendment.

**EXHIBIT (sth14a02)****Proponents' Testimony:*****{Tape : 1; Side : B; Approx. Time Counter : 12.3}***

**Bill Flyner, Citizen,** stated he is formally the undersheriff of Lewis and Clark County and former Lobbyist for MSPOA. He is speaking as a private citizen. In 1974, there was a very small pool of deputies who did not transfer into SRS. There are four reasons this did not happen. 1. Naivety, 2. Poor advice, 3. Lack of information and 4. Poor decision. The reason the SRS is willing to support the legislation with no cost, is because of the number of individuals affected by this and the cost may be equivalent to the cost of the loss of the officers, due to the training cost.

**Gregory Hintz, Missoula County Sheriffs Office,** stated he is one of three officers in the Sheriffs Office that are still members of PERS. Between 1973-74, deputies were transferred from a 30 year plan to a 25 year plan with no charge or penalty. Then from the 25 to 24 year plan and then again from the 24 year plan to the 20 year plan with no charge or penalty. He feels, as a matter of fairness, they should be rolled over to the Sheriffs

Retirement System with the same consideration shown to the others who had the opportunity.

**Kathy McGowan, Montana Sheriffs and Peace Officers' Association (MSPOA)** said she talked to Sheriff Maxwell, the president of the association, and he stated the association is in favor of this benefit for the three officers in their system.

**Opponents' Testimony:**

*{Tape : 1; Side : B; Approx. Time Counter : 21.2}*

**Mike O'Connor, Public Employees Retirement System** stated the Sheriffs Retirement System (SRS) was created in 1974 and all the members had the option to move into the Sheriff's Retirement System or to stay in PERS. Back in 1974 the contribution rate into PERS was 10.65%. The contribution rate coming into the Sheriff's Retirement System was 14.55%, so in order to pay that benefit there was an additional 3.9% coming in. Today in PERS, the contribution rate is 13.8% and the Sheriff's Retirement System is 18.78%, and an additional 4.98% that is being paid into the system. The reason it is higher, is because Sheriff's Retirement System has a better benefit. Under PERS, you have to have 30 years of service to retire, and 28 years of service to retire at 50%, and have to be age 60. In the Sheriff's Retirement System, you can retire after 20 years of service and after 8 years of service at 50%. He submitted information to show the cost to transfer from PERS to Sheriff's Retirement System. **EXHIBIT (sth14a03)**

**Carol Lambert, Public Employees Retirement Board**, stated the board feels it is a very unjust piece of legislation. They take their judiciary duties very seriously and there is nothing judicially correct about the bill.

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : B; Approx. Time Counter : 31.2}*

**REPRESENTATIVE LEHMAN** asked if there were only 3 individuals who would be affected by this legislation. **Kathy McCowan** stated yes, that is how she understands it.

**REPRESENTATIVE LEHMAN** asked **Officer Greg Hintz** if he is still an active Police Officer and what age he was in 1974, when he had the option to change retirement plans. **Officer Greg Hintz** replied, yes, he is currently still a Police Officer and he was 22 years old in 1974. **REPRESENTATIVE LEHMAN** then asked if the 3

Peace Officers' wishing to make the transfer were all from Missoula County. **Officer Greg Hintz** replied yes.

**REPRESENTATIVE BROWN** clarified that **Officer Greg Hintz** was 22 years of age when he was given the option to change retirement plans, and then asked if there were subsequent years where he could have opted to go into the Sheriffs Retirement System other than the one time in 1974. **Officer Greg Hintz** replied the only way he could have opted in after that time, was to pay the penalty, which he could not afford.

**Closing by Sponsor:**

*{Tape : 2; Side : A; Approx. Time Counter : 2.2}*

**REPRESENTATIVE HAINES** stated the officers wanting to do this are not after the benefit that would be paid to them, as much as they are after the time. They put their lives on the line for the same length of time as the other officers and would like retirement after 20 years of service.

**HEARING ON HB 287**

**Sponsor:** KIM GILLAN, HD 11, BILLINGS

**Proponents:** None

**Opponents:** Mary Phippen, MT Association of Clerks of District Court  
Nancy Sweeney, Lewis and Clark County Clerk of District Court  
Robert Throssell, MT Magistrates Association

**Opening Statement by Sponsor:**

*{Tape : 2; Side : A; Approx. Time Counter : 3.5}*

**KIM GILLAN, HD 11, BILLINGS** stated there are a declining number of mothers that are able to stay at home with their children. In her district, 78% of the people are dual income households. She received a phone call from a constituent who had made the decision to not go to work because she had young children. She had been repeatedly called for jury duty and could not get excused. She had 2 children at home with very few relatives and was forced to find a babysitter for her children to be able to serve on the jury. **REPRESENTATIVE GILLAN** then said she spoke with other parents to see if this was a one time circumstance or if it was a more common occurrence. She found it was a more

common occurrence. There are several other states: South Carolina, Tennessee, Texas, Virginia and Wyoming that will allow parents to be excused. This bill will provide, in the law, a signal to judges that we will allow an excuse for parents with young children. She also added, a provision that provides payment of childcare expenses should the parent not be excused from duty. The payment if you serve on a jury is around \$25.00. If you have to cover childcare cost with that, especially for more than one child, it can cause financial difficulty, especially for single parents. This is a very family friendly bill, that simply recognizes if you have children 7 years of age and under, it could be very difficult due to finding and paying for childcare, and for judges to take this into consideration.

**Opponents' Testimony:**

***{Tape : 2; Side : A; Approx. Time Counter : 8.6}***

**Mary Phippen, MT Association of Clerks of District Court,** stated the Association stands in opposition to the bill. First, if this bill becomes law and a court does not grant a request to a parent with a child under the age of 7 to be excused from jury duty on the basis of undue hardship, the court is then obligated to provide compensation for childcare in addition to other jury fees currently set in statute. This would create an unfunded state mandate to county government. Second, if this bill becomes law, the state assumes the additional expenses. Senate Bill 176 becomes effective July 1, 2001. House Bill 287 is effective upon passage and approval, therefore, from the effective date of this bill until July 1, 2001 counties would be subject to these additional expenses, which were not included in the budgeting process for fiscal year 2000-2001. Third, allowing compensation for childcare in addition to other fees allowed, could open other avenues for individuals to pursue legislation to seek additional compensation for jury service for different reasons if they too are not excused from jury duty because of what they believe is an undue hardship. Fourth, this bill sets no limit as to the amounts that would be paid for childcare expenses, if the potential juror is not excused from jury duty.

**Robert Throssell, MT Magistrates Association,** stated the judges in these courts have the same concerns as the Clerks of District Court. Serving on a jury is an inconvenience, but is a matter of public policy. Jury duty is a difficulty for business owners, teachers, and anyone who has obligations for that day, not just parents. This legislation would start setting a bad impression.

**Questions from Committee Members and Responses:**

*{Tape : 2; Side : A; Approx. Time Counter : 13.4}*

**REPRESENTATIVE JENT** asked what data is available concerning the calling of young parents for jury duty right now. **REPRESENTATIVE GILLAN** replied she does not have any comparable data, however, she has spoken with many people in her district. This is a citizen's legislature and she is bringing up concerns of parents. There are other states, including Wyoming, that currently have this law. Wyoming has recognized this is a very important issue for families and that is strong evidence that this legislation needs to be considered. **REPRESENTATIVE JENT** then asked what Wyoming's statute comprises of. Do they compensate or provide an automatic exclusion. **REPRESENTATIVE GILLAN** replied Wyoming does not compensate for daycare, but they do excuse parents with young children.

**REPRESENTATIVE BIXBY** stated, in her district, when she was called for jury duty, she was sent a form that asked if there was any reason why she could not serve on the jury duty. On two separate occasions she had previous plans. On one occasion, a preplanned trip and the second a meeting, and was excused both times. She then asked if every district court gives that option.

**REPRESENTATIVE GILLAN** replied, she did not know if every district court gives that option, however, the women she had spoken to asked to be excused and were told no. People are being excused due to business trips, but they are not willing to excuse the mother because she has to take care of her children.

**REPRESENTATIVE BROWN** asked, since this will eventually have an impact on the state ledger, will there be a fiscal note.

**REPRESENTATIVE GILLAN** replied when this bill came forward, the other piece of legislation which they are referring to had not been acted upon, therefore, there will be no fiscal note.

**REPRESENTATIVE BROWN** asked what the current cost of child care is. **REPRESENTATIVE GILLAN** replied she called Helena, Missoula and Billings area and the cost is between \$18.00 to \$21.00 per day. This is based on full-time daycare. Temporary daycare can be more expensive, if you can even find it. When serving on a jury you receive \$25.00. If you have no children, you will receive \$25.00 for serving on the jury, however if you have children and the childcare is not compensated for, you are receiving \$4.00 to serve on the jury.

**REPRESENTATIVE BARRETT** asked if mothers seek childcare for other purposes. When they have a doctors appointment, hair appointment or anything else, do they ever need childcare, or is this the only time they use childcare. **REPRESENTATIVE GILLAN** stated there are situations where everyone has one or two hour appointment and needs to seek childcare, however, when you are on jury duty you are there for a full day or one to two weeks solid.

**REPRESENTATIVE JACOBSON** asked if there are other specific groups who are granted exemptions like this one. **Nancy Sweeney** clarified in the current policy, it is a proven hardship on a case by case basis. If a situation provides undue hardship, where you have seven children and would be paying \$20.00 a child for daycare, a judge would usually see that as a hardship. There are currently no categories of specific groups exempted from jury duty.

**REPRESENTATIVE LEHMAN** asked what is paid for jury duty on a daily basis and is the amount state-wide, or decided county by county or court by court. **Nancy Sweeney** replied the cost for serving on a jury, if you are selected for a final juror is \$25.00 a day for each day of service. This is set in state statute and is uniform throughout.

**REPRESENTATIVE RASER** stated, having been a single parent and understanding how difficult it is to find childcare, could there be an amendment to have language put in the bill stating "this may be considered" a hardship. **Mary Phippen** replied the association would be amenable to the amendment.

**REPRESENTATIVE RASER** asked **REPRESENTATIVE GILLAN** how she would feel with that kind of amendment to the bill. **REPRESENTATIVE GILLAN** replied she would also be amenable to an amendment.

**Closing by Sponsor:**

***{Tape : 2; Side : A; Approx. Time Counter : 30.4}***

**REPRESENTATIVE GILLAN** stated she recognizes some of the concerns of the opponents, however, she does not agree that people with young children do not want to serve on the jury because of inconvenience. If you do not have regular daycare, it is extremely hard to find temporary daycare. When fathers or mothers make the decision to stay home with their children, this decision is usually done in great financial sacrifice. She does feel this is a valid excuse to be dismissed from jury duty.

**EXECUTIVE ACTION ON HB 204**

*{Tape : 2; Side : B; Approx. Time Counter : 1.6}*

**Motion:** REP. DELL moved that **HB 204 DO PASS.**

**Discussion:**

**REPRESENTATIVE DELL** stated he is concerned about the bill. This is a housekeeping bill to make things easier for the agencies, but more difficult for the voter.

**REPRESENTATIVE LEE** stated in the Local Government Committee, there is HB 55, which allows a voter to reactivate at any election. She would like to wait for action to be taken on HB 55 before any action is taken on HB 204.

**CHAIRMAN WALTERS** asked for clarification from **Sheri Heffelfinger, Research Analyst**, of what would happen if both bills were to pass. **Sheri Heffelfinger** replied only if there is a conflict would you need coordination instructions. If there is a conflict, staff will be notified and a technical coordination amendment will be done to insure they work together.

**REPRESENTATIVE BARRETT** said she feels HB 55 deals with active voters and HB 204 deals with the 85,000 inactive voters that the courthouses cannot deal with. She sees the need for this bill. If the voter list could be cleaned up, it would be a savings of time and money.

**REPRESENTATIVE BROWN** stated the committee should not base their knowledge on waiting for another committee to do something. If we held up every bill because something else is pending, we would not get anything done.

**REPRESENTATIVE RASER** said she understands both sides to the bill. She suggested an amendment be done to incorporate the two bills.

**CHAIRMAN WALTERS** stated he agrees with **REPRESENTATIVE BROWN** and personally likes the bill the way it currently is. He spoke to his county clerk and they stated it is a big problem. There has to be some responsibility for the people who vote.

**Motion/Vote:** REP. DELL moved that **HB 204 DO PASS. Motion carried 14-4 with Bixby, Dell, Hedges, and Jacobson voting no.**

**ADJOURNMENT**

Adjournment: 9:57 A.M.

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REP. ALLAN WALTERS, Chairman

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RUTHIE PADILLA, Secretary

AW/RP

**EXHIBIT (sth14aad)**