



State Administration, Public Retirement, and Veterans' Affairs Interim Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

56th Montana Legislature

SENATE MEMBERS

SUE BARTLETT, VICE-CHAIR
E.P. "PETE" EKEGREN
DON HARGROVE
GLENN A. ROUSH

HOUSE MEMBERS

MATT BRAINARD, CHAIRMAN
EDITH J. CLARK
TOM DELL
CAROL WILLIAMS

COMMITTEE STAFF

SHERI HEFFELFINGER
RESEARCH ANALYST
JOHN MacMASTER, ATTORNEY
DAVID NISS, ATTORNEY
JOANN JONES, SECRETARY

MINUTES

Capitol Building
Helena, Montana
September 15, 2000

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

COMMITTEE MEMBERS PRESENT

Rep. Matt Brainard, Chairman
Sen. Sue Bartlett, Vice Chair

Sen. E.P. "Pete" Ekegren
Sen. Don Hargrove
Sen. Glenn A. Roush

Rep. Edith J. Clark
Rep. Tom Dell
Rep. Carol Williams

STAFF PRESENT

Sheri Heffelfinger, Research Analyst
David Niss, Attorney
Jo Ann Jones, Secretary

VISITORS

Visitors' list, Attachment #1.

COMMITTEE ACTION

C Adopted the following policy statements:

To not tie the GABA to social security increases or to the CPI;

To set a goal of attaining a 2.5% GABA, authorizing the retirement boards for each system to move toward that goal in incremental increases as the financial soundness of each system allows, and stipulating that the amortization period not exceed 25 years when an increase is made;

To increase the TRS minimum benefit from \$500 to \$600 per month;

To examine a minimum level of benefits for members of the PERS system rather than one-time increases of a set amount;

To not encourage employees to opt out of the state's retirement systems;

To change ethics laws to more clearly define to whom it is applied, and to relieve the burden of an ethics commission;

To encourage the transfer of firefighters from PERS to FURS, stipulating that it be done on an actuarially sound basis without general fund responsibility for retroactive expenses;

To recognize the need to transfer firefighters from rural fire districts to FURS and to authorize a method for that transfer but, in realization of other serious dimensions, requiring their local governing board to make the transfer;

To accept a proposal to raise the GWPORS percentage to 2.5% to bring it to parity with similar systems, stipulating that if the costs cannot be absorbed, employee and employer contributions would be made to make the system whole;

To discourage a reduction in the years of service or a lowering of the age of retirement because to do so is not in the best interests of the State of Montana as an employer;

To encourage standardization of similar retirement systems over a period of time and the avoidance of decisions that encourage small and frequent adjustments to the systems; and

To not encourage early retirement and a return to work without participation in the retirement system.

C Approved the following Committee bills:

Protection of resident hunting privileges for Montana residents on active military duty elsewhere;

Expansion of the types of vehicles that qualify for registration by a 100% disabled veteran;

Relieve mortuaries of contingent liability under certain conditions for the release of veterans' unclaimed remains;

A study resolution for veterans' affairs;

To send a letter to Montana's Congressional delegation expressing concern over the release of veterans' records by the VA to the FBI;

Allowing a 100% disabled veteran to purchase another service-related special plate for which he or she is qualified at the same rate for a disabled veterans plate;

Requesting a bill be drafted to reflect the provisions of the Disability and Retiree Health Care Subcommittee report on disability coverage for DC plan members; and

Requesting a bill be drafted to reflect the provisions of the Disability and Retiree Health Care Subcommittee report on the establishment of VEBA accounts.

C The Committee also:

Did not approve a proposal to allow dispatchers a 20-year retirement;

Voted to send Rep. Lawson a letter stating that more information is required on his proposed bill to allow fire department relief associations' board of trustees the authority to set pension amounts; and

Authorized the Department of Administration to adopt rules on how much sick leave may be phased in as contributions to VEBAS during one year.

CALL TO ORDER AND ROLL CALL

Rep. Brainard called the meeting to order at 8:05. Roll call was noted, see Attachment #2.

Sen. Bartlett moved the minutes of the August 4, 2000, meeting be approved as distributed. The motion passed on unanimous voice vote.

See Attachment #3, proxy vote authorizations for Sen. Hargrove by Sen. Ekegren and for Rep. Dell by Sen. Bartlett, utilized in votes on motions after 4:00.

RETIREMENT PROPOSALS, NO. 1 THROUGH NO. 5

Exhibit #1: Staff Analysis: Retirement Proposal No. 1 through No. 5

Sheri Heffelfinger, staff, said proposals 1-5 deal with the amount of the Guaranteed Annual Benefit Adjustment (GABA), a 1.5% annual benefit increase that begins three years after retirement. The underlying policy issue is whether the 1.5% GABA is sufficient.

Rep. Brainard said that in order to maximize the time available to the Subcommittee in the most efficient and productive manner, policy issues will be discussed, instead of each proposal individually. Sen. Bartlett said she agreed with Rep. Brainard.

Rep. Brainard said the first issue involves a proposed increase of the 1.5% GABA and whether it should be tied to social security or the Consumer Price Index (CPI). He said he believes that more experience is needed to determine how the 1.5% affects the system and unfunded liability. Any policy that lengthens the period of unfunded liability, keeping it at the maximum, puts it first on the list for budgeting during legislative sessions, and lessens flexibility. One reason for increasing the GABA is to keep pace with rising medical costs. A problem with retirement benefits is that they are taxable and anything that can provide a non-taxable benefit is good. Rep. Brainard said he believes that a 1% salary addition to a VEBA account will do much more than a 1% increase in the GABA.

Sen. Bartlett suggested weeding out approaches not approved by the Committee, i.e., tying the GABA to social security increases or the CPI.

Rep. Brainard asked for Committee comment.

Rep. Dell said tying the GABA to federal sources means loss of control and he would be very reluctant to do that.

Sen. Bartlett said she does not favor tying the GABA to social security or the CPI without some sort of cap. She said that unless someone feels strongly that this issue should be addressed, she would prefer to address the other proposals.

Rep. Brainard moved that, as a matter of policy, the Committee does not agree tying the GABA to social security increases or to the CPI. Rep. Clark called for the question. The motion passed on unanimous voice vote.

Rep. Brainard said the next issue involves at what point should the GABA be increased. An increase means either an appropriation by the Legislature or an increase in contributions. Increasing the employer's contribution could become an unfunded mandate for the cities and counties. He said that the GABA should be kept at 1.5% for at least one more session.

Sen. Hargrove said he agreed with Rep. Brainard, although he thinks the 1.5% is probably too low. There is not enough experience yet to determine how that percentage will perform.

Rep. Dell asked if there is any information available about the possibility of extending the amortization period so that a 2.5% GABA could be given. Ms. Heffelfinger said she had no information, but the retirement boards may have some preliminary information.

Rep. Brainard said policy issues should be discussed, rather than numbers. Perhaps when the unfunded liability is down to about ten years, it may be appropriate to discuss lengthening it in order to provide a raise. Rep. Dell said he was dismayed to read that Montana is at the bottom in providing GABAs and COLAs. The problem for most of his constituents is the cost of medical care and prescriptions, not inflation.

Rep. Williams said she agrees with Rep. Dell but the Committee is charged with issues involving state and public employees. Some retirees are living on \$500 a month and will never get caught up, so the 1.5% won't help those people. For that reason, an increase to 2.0% or 2.5% may not be such an awful thing.

Sen. Hargrove said that one cannot help but look at the legislative realities. He said it was a very hard fight just to get the 1.5% GABA. Attempting to raise the GABA now might jeopardize the situation. He said he might be a little over-cautious, but really did not think so.

Rep. Williams asked if actuarial projections indicate that a GABA raise would jeopardize the system. Rep. Brainard said that a minor change can create a major effect on unfunded liability. In 1997, the Teachers Retirement System (TRS) couldn't offer a GABA but could in 1999 because of good market results. He said the Legislature is constitutionally bound to ensure that the system is actuarially sound.

Sen. Bartlett said one proposal does not involve a set increase in the GABA, but rather to authorize the retirement boards to make increases in their role as fiduciaries after financial review. She said she would like to hear more information on that proposal.

Rep. Brainard said he is reluctant to delegate authority to a board because once a benefit is given, it cannot be taken away, and the Legislature must maintain it. A guaranteed benefit must be the responsibility of the Legislature to award.

Sen. Bartlett said she agrees, but would like to hear clarification from Mr. Senn.

David Senn, TRS, said the proposal is to incrementally increase the GABA from 1.5% to 2.5%. The authority is delegated to the retirement board to make an increase when the financial situation makes it possible and feasible. There is no schedule of increases because an increase is tied to the financial health of the system.

Sen. Bartlett asked if the Legislature would set the policy to eventually reach 2.5% and it would become the board's responsibility to determine how the 2.5% would be reached, without an increase in contributions. Mr. Senn said that was correct.

Tom Bilodeau, MEA-MFT, said unfunded liability is determined by projected investment earnings and it is projected that the unfunded liability in the TRS will never exceed 25 years.

Sen. Bartlett said one minor consideration is the implementation of the defined contribution (DC) plan and, if any significant benefit enhancements are being contemplated, they should probably be done now. Everyone in the Legislature knew that the 1.5% was not sufficient. She said she doubts that interest groups will ask to increase the GABA by only a tenth of a percent or that the boards will request a single enormous increase. It may be wise to build in a movement toward a higher figure based on financial soundness. She said this is a realistic and financially responsible approach. There must either be an increase in benefits or the provision of tax-free income for medical costs.

Sen. Bartlett moved that the Committee set a policy goal of reaching a 2.5% GABA and authorize the retirement board for each system to move toward that goal, increasing the GABA as the financial soundness of each system allows, stipulating that the amortization schedule cannot exceed 25 years when the increase is made.

Rep. Brainard said one of his concerns is that inflation is always discussed but there is never discussion of deflationary cycles in the economy. He said that the CPI had decreased today, for the first time in a long time. The CPI is flexible according to what is and is not included in its calculation. In a global economy, Montana workers are compared to workers around the world who are paid much less. If there is a significant depression, the question is how to fund the retirement system. Increased benefits become a constitutionally guaranteed contract, no matter what the health of the economy might be.

Sen. Bartlett asked David Niss, staff attorney, if there are cases that address extraordinary circumstances, making it possible to unilaterally modify a contract. Mr. Niss said cases of that type do exist, but are mostly U.S. Supreme Court or California Appellate Court cases, not from the Montana Supreme Court. He said he suspects that's because the situation has not arisen in Montana so the Court has not been able to issue a ruling. California considers benefits as a contractual obligation, but he would have to re-examine the cases to determine to what extent California considers it a contract.

Sen. Hargrove said he can support the motion as a policy statement, but said there may not be legislative support to delegate authority to the retirement boards.

Rep. Brainard said a policy statement from the Committee will have an effect on legislation during the 2001 Legislative Session. He said the proposal would probably pass and then, within a couple of years, there will be a new request to move the GABA even higher.

Rep. Brainard called the question. The motion passed, 7-1, on roll call vote, Rep. Brainard voting no. See **Exhibit #2: Roll call vote tally sheet.**

Rep. Brainard said he would like the final report for the Committee to include a clear listing of policy statements for the Legislature's use.

Rep. Brainard said Sen. Bartlett has raised the issue of another benefit increase, e.g., increasing the minimum amount received by those people who are in the systems that were in place prior to 1991. He said he believes an increase in the minimum is a good thing to do although one must take care so that the retirement boards should suddenly become a vending machine for benefits. The policy should be that an increase in the minimum be established through legislation for legislative consideration and should not be designed to retirement boards. He asked if any Committee members disagreed with that policy. No objection was raised.

Rep. Brainard opened discussion on the proposal to raise the minimum benefit amount from \$500 to \$600.

Sen. Hargrove said he is not certain of the fiscal impact that raising the minimum might have.

Mr. Senn said that 531 retired teachers will slide below \$500 per month because they are beneficiaries of TRS members and, as beneficiaries, they receive a reduced benefit. Rep. Brainard asked about the fiscal impact of an increase. Mr. Senn said there will be virtually no effect because these people are, generally speaking, very elderly.

Sen. Roush said he would support increasing the minimum but was not comfortable not knowing the actual costs.

Sen. Hargrove said it appeared the costs would be negligible.

Sen. Bartlett asked Mr. Senn if the same thing would happen again, if this bill passed. Mr. Senn said it happens when beneficiaries receive a reduced benefit. Mr. Bilodeau said it is much less likely to happen with a GABA in place.

Rep. Brainard recommended that the TRS present this proposal on its own merits as a policy statement to the 57th Legislature.

Sen. Ekegren moved that the Committee approve, as policy, that the TRS minimum benefit be increased from \$500 to \$600.

Rep. Brainard asked Sen. Ekegren if the motion is qualified by the impact on the financial soundness of the TRS. Sen. Ekegren said his only concern is that the issue be put on the table and considered. He said it must pass on its own merits.

Rep. Brainard said the bill will appear in the next session, whether or not the Committee approves it now.

Rep. Brainard called for the question. The motion passed, 6-2, on voice vote, Reps. Brainard and Clark voting no.

Sen. Bartlett said one proposal is a one-time \$50 a month increase in benefits for pre-1981 retirees in the PERS-administered plans.

Rep. Brainard asked Mike O'Connor, Executive Director, PERS Board, for comment. Mr. O'Connor said the intention is to raise the monthly benefit for those receiving very low benefits. He said the range of retirement benefits is \$200 to \$2,700 per month, but the intention does not include raising the benefits of those on the high end of the scale.

Rep. Brainard moved that policy be to examine a minimum level of benefits, similar to those provided by the TRS, instead of a one-time \$50 per month increase.

Rep. Clark said she supports this motion in the interests of parity.

Sen. Hargrove said the motion is appropriate because the Legislature should not be in the business of income redistribution.

Rep. Brainard said that with the Committee's support, a vote will not be taken but rather will accept the motion as a policy statement. No objection was raised.

REPORT FROM THE MILITARY AND VETERANS' AFFAIRS SUBCOMMITTEE

Exhibit #3: Subcommittee on Military and Veterans' Affairs [listing of Committee bill requests]

Bill #1 provides protection for resident hunting privileges for Montana residents who are on active military duty and stationed elsewhere. Sen. Ekegren moved adoption of the bill as a Committee bill. The motion was approved on unanimous voice vote.

Bill #2 expands the list of vehicle types that qualifies for a discounted registration by a 100% disabled veteran. Rep. Dell moved adoption of the bill as a Committee bill. The motion passed on unanimous voice vote.

Bill #3 relieves mortuaries of contingent liability under certain conditions for the release of unclaimed veteran remains. Rep. Clark moved adoption of the bill as a Committee bill. The motion passed on unanimous voice vote.

Bill #4 is a veterans' issues study resolution for the 2001-2002 interim. Sen. Hargrove said the resolution is a vehicle to express some concerns and guidance. Rep. Brainard said he would prefer to strike the language of a subcommittee because it is wrong terminology and implies the use the expense money. He recommended the substitution of working group instead. There was no objection. Rep. Brainard moved adoption of the bill, as amended, as a Committee bill. The motion passed on a unanimous voice vote.

Sen. Hargrove said the Subcommittee had also requested staff to draft a letter to Montana's Congressional delegation expressing concern about the release of 79,000 records involving veterans to the FBI. He said the information indicated a tie to the Brady Bill, but he feels that this is merely the tip of the iceberg on the entire issue of information sharing. Rep. Brainard said he thought this issue to be very important, and moved adoption of the request but wished to make it a letter from the full Committee. Sen. Hargrove said he agreed and was pleased. The motion passed on unanimous voice vote.

Bill #5 allows a 100% disabled veteran to purchase a Purple Heart plate for the special fee. Rep. Brainard asked if there had been discussion about other types of plates that a disabled veteran might be entitled to display. He said he wants to make sure that all categories are covered in one bill. Ms. Heffelfinger said there are others, like Legion of Valor and Pearl Harbor Survivor. Rep. Brainard moved to adopt a Committee report recommending that a 100% disabled veteran may take the choice of a special service-related plate for which he or she is qualified at the price of the disabled veteran plate.

Sen. Hargrove said he agreed with the motion. The motion passed on a unanimous voice vote.

Sen. Bartlett asked if the issue of information sharing with the FBI with veteran records could be included in the study resolution. Sen. Hargrove said that was a good idea.

Sen. Bartlett moved to add the issue of the release of veteran records to the FBI to the study resolution previously approved. The motion passed on unanimous voice vote.

RETIREMENT PROPOSALS NO. 6 THROUGH NO. 11

Exhibit #4: Staff Analysis: Retirement Proposals No. 6 through No. 11

Exhibit #5: Table 1: Benefit Eligibility and Basic Benefit Formula

Table 2: Disability Benefits

Table 3: Retiree and Benefit Recipient Data

Table 4: Membership Data

Table 5: Contributions, Costs, and Actuarial Data

Table 6: Investment Data

Rep. Brainard asked for discussion on the proposal that would allow law clerks to opt out of the PERS system.

Rep. Dell asked if the contributions can be rolled over to an IRA or something similar.

Ms. Heffelfinger said only the member's contributions plus 5% interest can be rolled over.

Rep. Brainard said one group of people who serve on a contractual basis, like law clerks, are those on the Board of Regent's contracts. He said that he believes law clerks should not receive that option because they can transfer to the DC plan or roll contributions over into an IRA.

Sen. Bartlett moved not to adopt the proposal of allowing law clerks to opt out of the PERS retirement system. Rep. Brainard said it should be policy that people are not encouraged by opt out of the state's retirement systems. Sen. Bartlett said she would

accept Rep. Brainard's comment as a substitute motion. The motion passed on unanimous voice vote.

Rep. Brainard said he can understand the reasoning behind the proposal to move dispatchers into a 20-year retirement, but he is not sure that the stresses are the same thing as being put in life-threatening situations.

Sen. Hargrove said an attempt to make the playing field level in one area doesn't make it level in all areas.

Jerry Williams, Montana Police Protective Association, said the problem is that dispatchers deal with life-and-death situations on the telephone rather than on the street. He said that, to his knowledge, never has a dispatcher in Butte completed 20 years of service.

Rep. Brainard asked how many dispatchers transfer to the position of police officer. Mr. Williams said that in 15 years in Butte, 5 dispatchers have gone on to become police officers.

Sen. Roush said he has been asked to carry a bill in regard to 911 training. He said there are 51 911 call centers in Montana and in the rural areas, the problem is the retention of qualified dispatchers because of work stress. He said he would support the request for a 20-year retirement.

Sen. Hargrove said retention is the main issue, but he does not think a 20-year retirement is the correct path to address that issue. Sen. Hargrove moved not to approve proposal for a 20-year retirement for dispatchers. The motion passed, 6-2, Sen. Roush and Rep. Williams voting no.

PRESENTATION BY THE COMMISSIONER OF POLITICAL PRACTICES

- Exhibit #6: Proposed Amendments to Ethics and Campaign Finance and Reporting Statutes**
- Exhibit #7: Summary of Facts and Statement of Findings In the Matter of the Complaint Against Dennis Paxinos, Yellowstone County Attorney**
- Exhibit #8: Proposed Amendments to Ethics Statutes**
- Exhibit #9: Proposed Amendments to Campaign Finance and Reporting Statutes**

Linda Vaughey, Commissioner of Political Practices, introduced Jim Scheier, Agency Legal Services Bureau, Department of Justice. Mr. Scheier discussed Exhibits #6 through #7.

Rep. Brainard said there are problems with the definitions in the ethics statutes. He said the proposed changes are, in effect, housekeeping bills.

Sen. Bartlett said she applauds the Commissioner's effort to address these issues. She said it is not surprising that there is a need for clean up work in this area because it is a difficult issue to legislate.

Sen. Hargrove said the ethics statutes are confusing, especially in the area of local government. He said the recommendations are well thought out and useful. He asked for clarification on the penalties for violations. Mr. Scheier said there is a substantial civil penalty. Considering the burden of proof and the mental state element inherent in criminal law, a civil penalty is the better route to go.

Rep. Brainard said he wants to make sure that there is a finding of fact following an accusation of an ethics violation in an agency.

Rep. Brainard moved that the Committee support the adoption of a policy of changing ethics law to more clearly define to whom it is applied, and to relieve the burden of an ethics commission.

Sen. Bartlett said she agreed with the policy, but she is not sure that she supports each proposed change. She does want the 57th Legislature to think that the Committee endorses each provision. Rep. Brainard said the Committee's recommendation may or may not carry much weight and said these items will not be proposed as Committee bills.

The motion passed on unanimous voice vote.

In regard to campaign finance, Sen. Bartlett asked what the starting point would be to track expenditures. Mr. Scheier said the starting date is when the measure is submitted for review and approval. Sen. Bartlett asked about expenditures prior to submission. Mr. Scheier said that was a valid point and may be something that needs to be explored.

Rep. Brainard said a logical place to start is when individual expenditure ends and commingling of funds begins and donations are accepted.

Rep. Dell asked for clarification on the definition of electioneering. Mr. Scheier said the regulatory definition is the solicitation of support or opposition, e.g., material benefits, signs, amplification of voice, but it does not include bumper stickers. Rep. Dell said there appears to be plenty of opportunity for challenge in regard to free speech. Mr. Scheier said the U. S. Supreme Court approved a Tennessee law that was similar to this one.

Rep. Brainard said the Committee will not adopt a stand one way or another on the campaign finance issues.

RETIREMENT PROPOSAL NO. 8

Exhibit #10: Letter to Rick Silva from Cynthia Schultz, Great Falls Airport Director

Exhibit #11: Medical and physical requirements for firefighters

Rep. Dell asked if there is preliminary information on the cost involved to move the Great Falls Airport firefighters to the FURS retirement system. Ms. Heffelfinger said no. During the 56th Legislature, a similar bill died in the Appropriations Committee.

Roger Hagan, Great Falls International Firefighters Local No. 3261, said one way to ease into the transference to FURS is to provide FURS for all new hires. He said that in discussions with the Public Employees' Retirement Division, it was indicated that there are ways for current employees to opt into the FURS system from the PERS.

Sen. Hargrove said that although this is the right thing to do, the primary consideration will probably be cost.

Rep. Brainard said he would encourage the change to FURS from PERS as policy, with the stipulation that the general fund would not have to pick up retroactive costs. Sen. Hargrove agreed.

Sen. Bartlett asked if this proposal includes all firefighters because there would be resentment if some remain in PERS and new hires are in FURS. Rick Silva, Local No. #3261, said the union members have discussed this issue and have determined that the change must start somewhere.

Rep. Brainard moved to adopt a policy encouraging the transition from PERS to FURS and that the costs involved in that move be handled on an actuarially sound basis with no general fund responsibilities for retroactive expenses. The motion passed on unanimous voice vote.

On Retirement Proposal #9, Roger Hagan recommended the Committee take no action.

PROPOSAL NO. 10

Rep. Brainard asked if the proposal to transfer certain rural fire districts to the FURS system encompasses volunteer fire departments or full-time firefighters. Mr. O'Connor said they would have to be paid firefighters to qualify for FURS benefits.

Sen. Bartlett asked how many rural fire districts would be affected. Mr. O'Connor said a bill on the same issue was introduced last session and, at the time, the Lockwood Rural Fire District and the Missoula Rural Fire District were the only ones that would be affected.

Rep. Brainard said he was not comfortable dealing with this issue at the present time because the ramifications exceed retirement issues. In local government, there is a struggle between rural departments and city departments. The tax base of a fire district can be annexed into a city and homeowners are caught in the middle. He said the issues might need more detailed examination. It may be easier for rural firefighters to go to work for the city.

Sen. Bartlett said she agrees that other issues are involved but if you examine it from just the retirement perspective, it appears to be a situation similar to that of the Great Falls Airport firefighters.

Sen. Bartlett moved to recognize the need to address the issue of the need to transfer rural fire districts to FURS and to authorize a method for making that transfer, but requiring action by their local governing board to make the transfer, not ignoring other serious dimensions. The motion passed on unanimous voice vote.

PROPOSAL NO. 11

Rep. Brainard said the proposal to redefine "detention officer" and transfer them to the Sheriffs Retirement System is not dissimilar to the proposal for dispatchers, except in this case, there is the possibility of physical assault.

Sen. Bartlett asked Kathy McGown, Sheriffs and Peace Officers Association, if detention officers are defined now in statute. Ms. McGowan said there are some references but the definition is not clear. She said they are informing the Legislature that this a proposal that is being considered because there are now more detention officers working for Sheriffs Offices than there are deputies.

Sen. Hargrove said this does not appear to be the right vehicle to remedy the insufficiencies. He said he would vote against this proposal if it were intended for legislation.

Rep. Brainard said the policy implication is to tell a county that it must transfer employees from one system into another, knowing that it will cost money. He said he was not sure this proposal would succeed as a study, and recommended that the association find a sponsor.

Sen. Bartlett said she understood this proposal as an incremental approach. Rep. Brainard said it could probably be done in one session, if approached correctly. He said if the counties agreed to this proposal, it would probably be a slam dunk.

Sen. Hargrove moved that no policy statement be adopted on the transference of detention officers to the SRS. The motion passed on unanimous voice vote.

PROPOSAL NO. 12

Exhibit #12: Staff Analysis: Retirement Proposal No. 12

Rep. Brainard said a fundamental issue of allowing for a 20-year retirement for game wardens (while removing the age requirement of 50 years) is the one of someone returning for a second full career after retirement. He said he would be inclined to move the 2.0% to 2.5% to bring the GWPORS into parity with the highway patrol, firefighters, sheriffs and peace officers retirement systems.

Sen. Bartlett asked if the costs could be absorbed within the system without breaching the 30-year amortization limit. Mr. O'Connor said the system is very healthy and he suspects the system could absorb the increase with unfunded liability and still be within a comfortable amortization schedule.

Sen. Hargrove said it seems that the playing field is being leveled for those careers that require physical strength and agility. He said he would not object to this proposal.

Rep. Brainard moved that, as policy, the Committee would accept the proposal to raise the GWPORS percentage to 2.5% and if the cost cannot be managed in an actuarial manner within the system, employer/employee contributions be made to make the system whole. The motion passed on unanimous voice vote.

PROPOSAL NO. 13

Exhibit #13: Staff Analysis: Retirement Proposal No. 13

Rep. Brainard said he is not sure if he could endorse both a proposal for a 2.5% GABA and this proposal for a 25-year retirement in one session. Mr. O'Connor said there would be no change in the formula, it's just that a member could retire after 25 years of service.

Rep. Brainard said the language is confusing.

Rep. Dell moved to set aside the proposal for a 25-year retirement because of a lack of information.

Sen. Bartlett said her position has been to discourage a reduction of years of service or age requirements. Because of lengthening life spans, early retirement causes the benefit to be eroded before death occurs. She said this is also a human resource concern for government because early retirement causes a loss of experience.

Rep. Brainard offered a substitute motion to discourage a reduction of years of service or age of retirement because it is not in the state's best interest to do so.

Rep. Dell said employees should be encouraged to work for better retirement, not earlier retirement.

The motion passed on unanimous voice vote.

Rep. Brainard said a variety of agenda items remain that do not need to be addressed today. He recommended that the DROP plan be part of a study resolution. Item #15, a proposal for ORP members to change employer contribution rates, does not warrant a Committee position.

PROPOSAL NO. 26

Exhibit #14: Letter from Gary Becker, Association of MT Highway Patrolmen, to Sen. Bartlett

Sen. Bartlett asked why the age 50 requirement was added in 1985. Mr. O'Connor said legislation enhanced the benefits, so the age requirement was added for those who joined the system after 1985.

Rep. Brainard asked if changing the age requirement would have much fiscal impact on the system. Mr. O'Connor said this is a career position with very little turnover and there would be no large impact to remove the age 50 requirement.

Sen. Hargrove said recent changes has resulted in a slow down in retirement and termination of service for the Highway Patrol, according to recent discussions he has had with patrolmen.

Rep. Brainard said one consideration today has been a standardization to avoid "ratcheting" the systems, and this proposal would be a step in that direction.

Rep. Brainard moved to adopt policy that encourages standardization of similar systems over a period of time and the avoidance of decisions that encourage ratcheting.

Sen. Bartlett said that, generally speaking, she supports the policy consideration, but will vote against the motion because removing the age requirement might encourage early retirement.

The motion passed, 7-1, on voice vote, Sen. Bartlett voting no.

Rep. Brainard said he does not think the Committee could take a position on Rep. Lawson's bill (See **Exhibit #15: LC 0029**) because much information is missing on the issue and it would be difficult to make a proper decision.

Rep. Brainard moved to send Rep. Lawson a letter stating that more information is required on his proposed bill to allow a fire department relief association's board of trustees to set pension amounts. The motion passed on unanimous voice vote.

OTHER POLICY ISSUES

Rep. Brainard said other policy issues remain, including how many hours retirees can return to work without being penalized.

Sen. Ekegren asked what the current limit is. Ms. Heffelfinger said it is now 640 hours in the same system in which the member retired. Sen. Bartlett said people can work over 640 hours, but the retirement benefit is reduced dollar-for-dollar. Ms. Heffelfinger said the retirement benefit can be deferred and the member can continue to contribute to the system.

Sen. Bartlett said she is not amenable to an increase of allowable hours because it makes no sense for a person to receive a retirement benefit and then return to work for the same employer.

Rep. Brainard moved that as policy, employees should not be encouraged to retire early and then return to work without participating in the retirement system. The motion passed on unanimous voice vote.

DISABILITY AND RETIREE HEALTH CARE SUBCOMMITTEE REPORT

Ms. Heffelfinger said the Subcommittee had decided to provide defined benefit disability coverage for all DC plan members, using the same formula as used in the DB plan, with a 0.43% contribution from the DC plan to the DB plan trust fund, as a component of the plan choice rate and that it be adjustable to cover the cost.

Rep. Brainard said the Subcommittee learned that disability insurance would be very difficult to obtain, so the decision was made to extend DB disability coverage to DC plan participants, but there is a question of IRS qualification.

Sen. Bartlett moved to adopt the report of the Subcommittee on disability coverage and request a bill draft to reflect those provisions. The motion passed on unanimous voice vote.

Rep. Brainard said the Subcommittee examined vehicles for tax-free money to be saved for medical expenses, and the decision was to proceed with the VEBA. The program will be put into the Department of Administration for administration, for all public employees, and that trustee services would be contracted out. Employee associations will be formed with a 25% of employees request required to hold an election for employer participation, and a simple majority required for participation itself. The plan will be funded through conversion of sick leave, requiring that a minimum balance of 120 hours be retained by the employee. There must be a negative election on an annual for an individual not to participate so that IRS qualifications may be met.

Ms. Heffelfinger asked about a maximum number of sick leave hours that can be converted in one year.

Sen. Bartlett moved to authorize the Department of Administration to adopt rules on how much sick leave may be phased in during one year to moderate the fiscal impact on the employers. The motion passed on unanimous voice vote.

Sen. Roush asked about administrative costs. Ms. Heffelfinger said the fees are paid from the VEBA accounts, either a participant or an asset-based fee. She said it's an issue that requires further consideration.

Sen. Bartlett moved to adopt the Subcommittee report on VEBA accounts and to draft a bill reflecting those provisions. The motion passed on unanimous voice vote.

Ms. Heffelfinger said Sen. Hargrove had accepted sponsors for the bills from his subcommittee. Rep. Brainard said he would recommend that sponsorship wait until after the election. Ms. Heffelfinger said the Committee bills have to be pre-introduced so the bill drafts will be sent to Rep. Brainard for approval and pre-introduction authorization.

OTHER BUSINESS

Rep. Brainard said one piece of unfinished business involves the informational hearing about the Libby rally, the Rainbow Family gathering in Beaverhead County, and the incidents surrounding the Hells Angel visit in Missoula. He asked if members would be interested in convening it at a later date, probably after the election, if there is sufficient budget and interest.

Sen. Bartlett said SB 11 specified that interim committees had a deadline for conclusion of work. Ms. Heffelfinger said Legislative Council policy for staff is that after September 15, concentration is focused on bill drafting. She said the Legislative Council would probably have to be consulted to have a meeting in November.

Sen. Roush said he would be available for another meeting, but he would also like to visit the Youth ChalleNGe program at Dillon.

Rep. Brainard asked if members are interested in touring the Youth ChalleNGe program and/or the hearing.

Sen. Ekegren said he would attend, if at all possible.

Sen. Bartlett said that she is ready to conclude all meetings.

Rep. Clark said that she will be available. She said that she has chosen to try and visit Dillon anyway to honor a promise made to some Youth ChalleNGe students that she met.

Rep. Brainard said he would defer the issue to the Legislative Council.

ADJOURNMENT

Sen. Bartlett moved to adjourn. The meeting was adjourned at 5:20.

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