

HOUSE BILL NO. 643
INTRODUCED BY SQUIRES

IN THE HOUSE

FEBRUARY 6, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

FEBRUARY 20, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 21, 1991 PRINTING REPORT.

FEBRUARY 23, 1991 SECOND READING, DO PASS.

FEBRUARY 25, 1991 ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
AYES, 57; NOES, 42.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 27, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

APRIL 1, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 4, 1991 SECOND READING, CONCURRED IN.

APRIL 5, 1991 THIRD READING, CONCURRED IN.
AYES, 40; NOES, 10.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 10, 1991 THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 643
2 INTRODUCED BY [Signature]

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION
5 FOR STATE EMPLOYEES WHOSE POSITIONS ARE ELIMINATED AS A
6 RESULT OF THE PRIVATIZATION, REORGANIZATION, OR CLOSURE OF A
7 STATE INSTITUTION."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Short title. [Sections 1
11 through 5] may be cited as the "State Employee Protection
12 Act".

13 NEW SECTION. Section 2. Definitions. As used in
14 [sections 1 through 5], the following definitions apply:

15 (1) "Employee" means a person employed by an
16 institution.

17 (2) "Institution" means any of the institutions or
18 facilities listed in 53-1-104.

19 (3) "Privatization" means contracting with a
20 private-sector entity for services previously provided by
21 the state.

22 NEW SECTION. Section 3. General protection. An
23 employee whose position is eliminated as a result of the
24 privatization, reorganization, or closure of an institution
25 is entitled to:

1 (1) preference for job openings in other state
2 institutions, departments, or agencies; and

3 (2) access to all announcements of state job vacancies.

4 NEW SECTION. Section 4. Guaranteed wages -- retention
5 of rights and benefits -- job training -- early retirement.

6 (1) If an employee transfers to another state job as a
7 result of the privatization, reorganization, or closure of
8 an institution, the employee is entitled to:

9 (a) a wage or salary that is equivalent to or higher
10 than the wage or salary of the employee's previous position;

11 (b) retention of all rights, benefits, and privileges
12 held prior to the transfer, including:

13 (i) all collective bargaining rights or benefits under
14 existing collective bargaining agreements; and

15 (ii) the state's contribution to group health insurance;

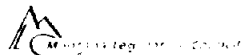
16 (c) relocation expenses paid by the state;

17 (d) access to retraining and career development
18 programs at the state's expense; and

19 (e) job counseling and vocational guidance at the
20 state's expense.

21 (2) If an employee chooses to seek a job with an
22 employer other than the state as a result of the
23 privatization, reorganization, or closure of an institution,
24 the employee is entitled to:

25 (a) relocation expenses paid by the state;



1 (b) access to retraining and career development
2 programs at the state's expense;

3 (c) job counseling and vocational guidance at the
4 state's expense;

5 (d) the continuation of employer contributions to the
6 employee's group health insurance for 12 months or until the
7 terminating employee is employed, whichever is less; and

8 (e) severance pay equivalent to 5% of the employee's
9 base wage or salary at the time of termination multiplied by
10 the number of the employee's consecutive years of service
11 with the institution. The severance pay must be paid as a
12 one-time, lump-sum payment to the employee.

13 (3) An employee who is 50 years of age or older and who
14 chooses to retire as a result of the privatization,
15 reorganization, or closure of an institution is entitled to
16 an early retirement allowance equivalent to the allowance he
17 would have received if he had been a vested member of his
18 retirement system with 30 years of creditable service.

19 (4) Nothing in this section may be interpreted as
20 entitling an employee to lifetime employment or as
21 protecting an employee against discharge for just cause.

22 NEW SECTION. Section 5. Adequate notice. An employee
23 and his collective bargaining unit representatives must be
24 given at least 6 months' notice prior to the privatization,
25 reorganization, or closure of the institution for which the

1 employee works.

2 NEW SECTION. Section 6. Severability. If a part of
3 [this act] is invalid, all valid parts that are severable
4 from the invalid part remain in effect. If a part of [this
5 act] is invalid in one or more of its applications, the part
6 remains in effect in all valid applications that are
7 severable from the invalid applications.

8 NEW SECTION. Section 7. Codification instruction.
9 [Sections 1 through 5] are intended to be codified as an
10 integral part of Title 39, and the provisions of Title 39
11 apply to [sections 1 through 5].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0643, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act providing protection for state employees whose positions are eliminated as a result of the privatization, reorganization, or closure of a state institution."

ASSUMPTIONS:

1. Assume as an example that 67.66 FTE in FY92 and 107.71 FTE in FY93 employees at Montana Development Center and Women's Correction Center will be eliminated as a result of reorganization (downsizing) and relocation to the new women's center.
2. An employee whose position is eliminated as a result of these actions is entitled to: a) preference for job openings; b) access to all announcements of state job vacancies; c) a wage or salary that is equivalent to or higher than the wage or salary of previous position if an employee transfers to another state job; d) retention of all rights, benefits, and privileges held prior to the transfer which consist of: 1) collective bargaining rights 2) state contribution to group insurance 3) relocation expenses 4) access to retraining and career development programs 5) job counseling and vocational guidance
3. If the employee obtains a job with an employer other than the state, then the state pays relocation expenses which may vary from none to a short move within Montana or to a major move between states. It is assumed 10% of employees displaced will require relocation to other work locations and the average cost will be \$1,250 each.
4. Retraining and career development programs will be required for all employees. The average displaced worker will require 3 months of classroom training for new, non-institutional job and the average cost of training is \$350 per week.
5. Job counseling and vocational guidance will be provided for one-half of displaced workers through existing jobs programs provided by state and federal agencies and one-half of displaced workers will be provided guidance and counseling through contracted providers. The average worker will require 12 visits at \$35 per visit.
6. Health benefits will be \$165 per month during FY92 based on Governor's pay proposal and the average displaced worker will require the state contribution for 12 months.
7. Severance pay is calculated on half of displaced workers not finding jobs. The average state employee is assumed to make \$20,000 per year and to have seven years of service with the state.
8. The bill requires a 6 month notice of the employer (State of Montana) before the privatization, reorganization or closure of the institution for which the employee works.
9. Assume no 50 year old employees retiring with 30 years credit PERS.

FISCAL IMPACT:

see next page

 2-12-91

ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

CAROLYN M. SQUIRES, PRIMARY SPONSOR

DATE

Fiscal Note for HB0643, as introduced**HB 643**

FISCAL IMPACT:

Department of Institutions:

<u>Expenditures:</u>	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	0	303,793	303,793	0	483,663	483,663
Operating Expenses	0	93,710	93,710	0	149,181	149,181
<u>Funding:</u>						
General Fund	0	397,503	397,503	0	632,844	632,844

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

1. The bill does not specify a mechanism for paying additional retirement benefits promised to employees age 50 or older whose positions are terminated; the bill provides no funding for these additional retirement benefits. Large unfunded liabilities, ultimately the responsibility of the state, will accrue as a result of this bill.
2. The bill, as drafted, does not provide any specific statutory authority (in Title 19) for paying increased benefits by any public retirement system in Montana.
3. Federal law restricts the amount and manner of payments by qualified multi-employer public pension plans. Any amendments to this bill should be drafted to conform to federal law in order to maintain qualified plan status of any retirement system paying benefits under this law. Federal law would require all state agencies to be treated equally and the institutions would not be the only agencies impacted. The impact to the retirement plan would be phenomenal.
4. The bill should be amended to define institution as any of the institutions or facilities listed in 53-1-104 (1)(a) through (e) or 53-1-202, MCA, which defines state institutions. This would exclude employees of a county or city detention facility who are not state employees. The bill appears to include these persons in error since they are not state employees.
5. The bill extends a number of benefits without establishing any limits in terms of time or dollars on those benefits.
6. The bill would extend previous contract benefits to an employee who may be employed under a different contract or no contract. This could result in unequal benefits for co-workers. No time limit is provided for the duration of these contract benefits.
7. The preference for state jobs provided in Section 3 is not defined.
8. The bill provides permanent pay protection for as long as the employee is employed by the state.
9. The bill places no limitations on expenses of relocating so expenses in individual cases could be much higher.
10. The bill places no limits on the retraining and career development necessary to move to a public or private job. The training required in individual cases could be much higher. Employees could sign on for extensive private training or education programs and send the bill to the state. The estimate assumes that the bill would not provide for major career shifts such as attaining technical, associate or baccalaureate degrees. Nothing in the bill restricts the kind of training or development available.
11. The bill provides no limit on the amount of counseling and guidance available to the employee, either in terms of time or dollars. The costs in individual cases could be much larger than the estimate in the above fiscal note.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0643, third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing protection for state employees whose positions are eliminated as a result of the privatization, reorganization, or closure of a state agency.

ASSUMPTIONS:

Department of Institutions

1. Assume as an example that 67.66 FTE in FY92 and 107.71 FTE in FY93 employees at Montana Development Center and Women's Correction Center will be eliminated as a result of reorganization (downsizing) and relocation to the new women's center.
2. An employee whose position is eliminated as a result of actions from HB0643 is entitled to: a) preference for job openings; b) access to all announcements of state job vacancies; c) salary equal to or greater than the employee's previous position; d) retention of all rights, benefits and privileges held prior to the transfer; e) relocation expenses paid by the state for a qualified employee who has at least 5 years of service; f) access to retraining and career development at state's expense, if the employee has at least 5 years of service and the total costs do not exceed \$2,000.

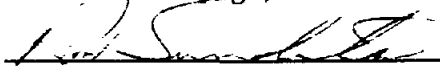
Department of Administration

3. Assume that 10% of displaced workers will be eligible for relocation expenses of \$1,000 per employee.
4. The average displaced worker will use the \$2,000 available for retraining or career development.
5. Assume half of the displaced workers will not find employment with the state and the average worker will require \$500 of job counseling or vocational guidance.
6. Assume the average displaced worker will require the state contribution to health benefits of \$1,980 for 12 months.
7. Assume half the displaced workers will not find other state jobs. The average state employee makes \$20,000 per year and has 7 years of service with the state and will be eligible for severance pay equivalent to 5% of the employee's salary.
8. A summary of the cost per average employee would be \$7,830 using the above assumptions. Funding would depend upon funding sources of agency affected.

Department of Revenue

9. The only division within the Department of Revenue to be affected by this legislation would be the Liquor Division.
10. The proposed Department of Revenue privatization plan for state liquor stores will be adopted by the current Legislature.
11. According to the Department of Revenue privatization plan, half of the state liquor stores would be closed in FY92 and half in FY93. Thus half of the store employees would be affected by privatization in FY92 and half in FY93.
12. All present store employees are assumed to remain in their present positions until their store is closed.
13. The state employee pay matrix will increase by 2.5% both in FY92 and FY93.

(continued on next page)


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

CAROLYN M. SQUIRES, PRIMARY SPONSOR

DATE

Fiscal Note for HB0643, third reading

HB 643-2

14. There are 56 liquor store employees that will have at least 5 years of service by FY92, and 61 employees will have at least 5 years of service by FY93.
15. There are a total of 96 store employees. Of the 96 employees, 29 are store managers and 67 are retail clerks.
16. The maximum expenditure impact would be \$501,819 in FY92 and \$520,004 in FY93. Under this assumption all 96 liquor store employees would have to be re-employed outside of state government and within the state of Montana and thus collect severance pay along with the maximum job counseling of \$500 each. Also, all workers with 5 years or more of service would use the maximum \$2,000 of retraining, \$1,000 of relocation expenses, and a full year of health insurance (employer contribution of \$1,800 per year, the current state government contribution).
17. An intermediate expenditure impact would be \$111,138 in FY92 and \$106,281 in FY93. Under this assumption, the 13 workers who will be 65 or older during the biennium will retire, all employees 35 and older with at least 5 years of service will secure other state government employment after retraining at a cost of \$2,000 each, and the remaining 36 employees would secure jobs with non-state government employers in Montana and receive severance pay and job counseling, with 5 employees also receiving retraining and continued health insurance.
18. The minimum expenditure impact of zero would occur if all store employees would either transfer to local state jobs without a need for retraining, or if all took out-of-state jobs.

FISCAL IMPACT:

Department of Institutions:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	0	228,123	228,123	0	362,331	362,331
Operating Expenses	0	76,000	76,000	0	120,000	120,000
Total	0	304,123	304,123	0	482,331	482,331
<u>Funding:</u>						
General Fund	0	304,123	304,123	0	482,331	482,331
<u>Department of Revenue:</u>						
Personal Services	0	393,819	393,819	0	406,004	406,004
Operating Expenses	0	108,000	108,000	0	114,000	114,000
Total	0	501,819	501,819	0	520,004	520,004
<u>Funding:</u>						
Proprietary Fund	0	501,819	501,819	0	520,004	520,004
Impact to General Fund			(304,123)			(482,331)

TECHNICAL NOTES:

1. The intent of the severance pay provision of this legislation (page 3, line 21) appears to apply to annualized base wage or salary. An insertion of this word on line 21 would clarify this issue.
2. Because the retirement benefit has been deleted (pages 3-4, Section 4(3)), the term early retirement could be eliminated from the title of Section 4 (page 2, line 9).
3. The bill extends relocation expenses to employees who transfer to other state positions; however, there are no limitations on those expenses (page 2, lines 20-21).
4. The bill would extend previous contract benefits to an employee who may be employed under a different contract or no contract. This could result in unequal benefits for co-workers. No time limit is provided for the duration of these contract benefits.
5. The bill provides permanent pay protection for as long as the employee is employed by the state.
6. The bill requires 6 months notice prior to a reorganization of an agency. This would be a new provision for reorganizations required by legislative action either through statutory changes or limited appropriations which could not be implemented for 6 months after final approval of appropriation bills by the Governor.

HB 643-2

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 643

INTRODUCED BY SQUIRES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION FOR STATE EMPLOYEES WHOSE POSITIONS ARE ELIMINATED AS A RESULT OF THE PRIVATIZATION, REORGANIZATION, OR CLOSURE OF A STATE INSTITUTION AGENCY."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 5] may be cited as the "State Employee Protection Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "AGENCY" MEANS AN AGENCY AS DEFINED IN 2-18-101.

(2) "Employee" means a person employed by an institution AGENCY.

(3) "Institution" means any of the institutions or facilities listed in 53-1-104.

(4) "Privatization" means contracting with a private-sector entity for services previously provided by the state.

NEW SECTION. Section 3. General protection. An employee whose position is eliminated as a result of the privatization, reorganization, or closure of an institution

AGENCY is entitled to:

(1) preference for job openings in other state institutions, departments, or agencies; and, PREFERENCE MUST BE GIVEN TO THE MORE SENIOR EMPLOYEE WHO MEETS MINIMAL JOB QUALIFICATIONS OR WHO CAN MEET JOB QUALIFICATIONS WITH RETRAINING AS PROVIDED IN [SECTION 4(1)(D)].

(2) access to all announcements of state job vacancies.

NEW SECTION. Section 4. Guaranteed wages -- retention of rights and benefits -- job training -- early retirement.

(1) If an employee transfers to another state job as a result of the privatization, reorganization, or closure of an institution AGENCY, the employee is entitled to:

(a) a wage or salary that is equivalent to or higher than the wage or salary of the employee's previous position;

(b) retention of all rights, benefits, and privileges held prior to the transfer, including:

(i) all collective bargaining rights or benefits under existing collective bargaining agreements; and

(ii) the state's contribution to group health insurance;

(c) relocation expenses paid by the state FOR A QUALIFIED EMPLOYEE WHO HAS AT LEAST 5 YEARS OF SERVICE; AND

(d) access to retraining and career development programs at the state's expense; and IF THE EMPLOYEE HAS AT LEAST 5 YEARS OF SERVICE AND THE TOTAL COSTS DO NOT EXCEED \$2,000.

SECOND READING

HB 643



1 ~~(e) job counseling and vocational guidance at the~~
2 ~~state's expense.~~

3 (2) If an employee chooses to seek SECURES a job IN THE
4 STATE with an employer other than the state as a result of
5 the privatization, reorganization, or closure of an
6 institution AGENCY, the employee is entitled to:

7 (a) relocation expenses paid by the state IF THE
8 EMPLOYEE HAS AT LEAST 5 YEARS OF SERVICE AND THE TOTAL
9 RELOCATION COSTS DO NOT EXCEED \$1,000;

10 (b) access to retraining and career development
11 programs at the state's expense IF THE EMPLOYEE HAS AT LEAST
12 5 YEARS OF SERVICE AND THE TOTAL COSTS DO NOT EXCEED \$2,000;

13 (c) job counseling and vocational guidance at the
14 state's expense FOR A PERIOD UP TO 6 MONTHS AND NOT
15 EXCEEDING A TOTAL COST OF \$500;

16 (d) the continuation of employer contributions to the
17 employee's group health insurance for 12 months or until the
18 terminating employee is employed, whichever is less, FOR AN
19 EMPLOYEE WITH 5 YEARS OR MORE OF SERVICE; and

20 (e) severance pay equivalent to 5% of the employee's
21 base wage or salary at the time of termination multiplied by
22 the number of the employee's consecutive years of service
23 ~~with the institution.~~ The severance pay must be paid as a
24 one-time, lump-sum payment to the employee.

25 ~~(3) An employee who is 50 years of age or older and who~~

1 ~~chooses to retire as a result of the privatization,~~
2 ~~reorganization, or closure of an institution is entitled to~~
3 ~~an early retirement allowance equivalent to the allowance he~~
4 ~~would have received if he had been a vested member of his~~
5 ~~retirement system with 30 years of creditable service.~~

6 ~~(4)(3)~~ Nothing in this section may be interpreted as
7 entitling an employee to lifetime employment or as
8 protecting an employee against discharge for just cause.

9 **NEW SECTION. Section 5.** Adequate notice. An employee
10 and his collective bargaining unit representatives must be
11 given at least 6 months' notice prior to the privatization,
12 reorganization, or closure of the institution AGENCY for
13 which the employee works.

14 **NEW SECTION. Section 6.** Severability. If a part of
15 [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this
17 act] is invalid in one or more of its applications, the part
18 remains in effect in all valid applications that are
19 severable from the invalid applications.

20 **NEW SECTION. Section 7.** Codification instruction.
21 [Sections 1 through 5] are intended to be codified as an
22 integral part of Title 39, and the provisions of Title 39
23 apply to [sections 1 through 5].

-End-

1 HOUSE BILL NO. 643

2 INTRODUCED BY SQUIRES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION
5 FOR STATE EMPLOYEES WHOSE POSITIONS ARE ELIMINATED AS A
6 RESULT OF THE PRIVATIZATION, REORGANIZATION, OR CLOSURE OF A
7 STATE INSTITUTION AGENCY."

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14 [sections 1 through 5], the following definitions apply:

15 (1) "AGENCY" MEANS AN AGENCY AS DEFINED IN 2-18-101.

16 (2) "Employee" means a person employed by an
17 institution AGENCY.

18 (3) "Institution" means any of the institutions or
19 facilities listed in 59-1-104.

20 (4) "Privatization" means contracting with a
21 private-sector entity for services previously provided by
22 the state.

23 NEW SECTION. Section 3. General protection. An
24 employee whose position is eliminated as a result of the
25 privatization, reorganization, or closure of an institution

1 AGENCY is entitled to:

2 (1) preference for job openings in other state
3 institutions, departments, or agencies; ~~and~~ PREFERENCE MUST
4 BE GIVEN TO THE MORE SENIOR EMPLOYEE WHO MEETS MINIMAL JOB
5 QUALIFICATIONS OR WHO CAN MEET JOB QUALIFICATIONS WITH
6 RETRAINING AS PROVIDED IN [SECTION 4(1)(D)].

7 (2) access to all announcements of state job vacancies.

8 NEW SECTION. Section 4. Guaranteed wages -- retention
9 of rights and benefits -- job training -- early retirement.

10 (1) If an employee transfers to another state job as a
11 result of the privatization, reorganization, or closure of
12 an institution AGENCY, the employee is entitled to:

13 (a) a wage or salary that is equivalent to or higher
14 than the wage or salary of the employee's previous position;

15 (b) retention of all rights, benefits, and privileges
16 held prior to the transfer, including:

17 (i) all collective bargaining rights or benefits under
18 existing collective bargaining agreements; and

19 (ii) the state's contribution to group health insurance;

20 (c) relocation expenses paid by the state FOR A
21 QUALIFIED EMPLOYEE WHO HAS AT LEAST 5 YEARS OF SERVICE; AND

22 (d) access to retraining and career development
23 programs at the state's expense; ~~and~~ IF THE EMPLOYEE HAS AT
24 LEAST 5 YEARS OF SERVICE AND THE TOTAL COSTS DO NOT EXCEED
25 \$2,000.

THIRD READING

1 ~~(e) job counseling and vocational guidance at the~~
 2 ~~state's expense.~~
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 4 STATE with an employer other than the state as a result of
 5 the privatization, reorganization, or closure of an
 6 institution AGENCY, the employee is entitled to:
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 8 EMPLOYEE HAS AT LEAST 5 YEARS OF SERVICE AND THE TOTAL
 9 RELOCATION COSTS DO NOT EXCEED \$1,000;
 10 (b) access to retraining and career development
 11 programs at the state's expense IF THE EMPLOYEE HAS AT LEAST
 12 5 YEARS OF SERVICE AND THE TOTAL COSTS DO NOT EXCEED \$2,000;
 13 (c) job counseling and vocational guidance at the
 14 state's expense FOR A PERIOD UP TO 6 MONTHS AND NOT
 15 EXCEEDING A TOTAL COST OF \$500;
 16 (d) the continuation of employer contributions to the
 17 employee's group health insurance for 12 months or until the
 18 terminating employee is employed, whichever is less, FOR AN
 19 EMPLOYEE WITH 5 YEARS OR MORE OF SERVICE; and
 20 (e) severance pay equivalent to 5% of the employee's
 21 base wage or salary at the time of termination multiplied by
 22 the number of the employee's consecutive years of service
 23 ~~with the institution.~~ The severance pay must be paid as a
 24 one-time, lump-sum payment to the employee.
 25 ~~{3} An employee who is 50 years of age or older and who~~

1 ~~chooses to retire as a result of the privatization,~~
 2 ~~reorganization, or closure of an institution is entitled to~~
 3 ~~an early retirement allowance equivalent to the allowance he~~
 4 ~~would have received if he had been a vested member of his~~
 5 ~~retirement system with 30 years of creditable service.~~
 6 ~~{4}~~(3) Nothing in this section may be interpreted as
 7 entitling an employee to lifetime employment or as
 8 protecting an employee against discharge for just cause.
 9 NEW SECTION. Section 5. Adequate notice. An employee
 10 and his collective bargaining unit representatives must be
 11 given at least 6 months' notice prior to the privatization,
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 14 NEW SECTION. Section 6. Severability. If a part of
 15 [this act] is invalid, all valid parts that are severable
 16 from the invalid part remain in effect. If a part of [this
 17 act] is invalid in one or more of its applications, the part
 18 remains in effect in all valid applications that are
 19 severable from the invalid applications.
 20 NEW SECTION. Section 7. Codification instruction.
 21 [Sections 1 through 5] are intended to be codified as an
 22 integral part of Title 39, and the provisions of Title 39
 23 apply to [sections 1 through 5].
 -End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
April 1, 1991

Page 2 of 4
April 1, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 643 (third reading copy -- blue), respectfully report that House Bill No. 643 be amended and as so amended be concurred in:

1. Title, line 6.
Following: "PRIVATIZATION"
Strike: ", "
Insert: "OR"
Following: "REORGANIZATION"
Strike: ", "
Insert: "OF A STATE AGENCY"
Following: "CLOSURE OF"
Insert: "OR REDUCTION IN FORCE AT"

2. Title, line 7.
Following: "INSTITUTION"
Strike: "AGENCY"
Insert: "INSTITUTION"

3. Page 1, line 15.
Following: "AGENCY"
Insert: ", "
Following: "2-18-101"
Insert: ", but does not include the Montana university system"

4. Page 1, line 20.
Following: line 19
Insert: "(3) "Institution" means any of the institutions or facilities listed in 53-1-202."
Renumber: subsequent subsection

5. Page 1, line 25.
Following: "privatization"
Strike: ", "
Insert: "or"
Following: "reorganization"
Strike: ", "
Insert: "of an agency"
Following: "closure of"
Insert: "or reduction in force at"

6. Page 2, line 1.
Strike: "AGENCY"
Insert: "institution"

7. Page 2, line 9.
Following: "training"
Strike: "-- early retirement"

8. Page 2, line 11.
Following: "privatization"
Strike: ", "
Insert: "or"
Following: "reorganization"
Strike: ", "
Insert: "of an agency"
Following: "closure of"
Insert: "or reduction in force at"

9. Page 2, line 12.
Following: "institution"
Strike: "AGENCY"
Insert: "institution"

10. Page 2, line 15.
Following: "rights"
Strike: ", "
Insert: "and"
Following: "benefits"
Strike: ", and privileges"

11. Page 2, line 16.
Following: "including"
Strike: ":"

12. Page 2, lines 17 and 18.
Strike: subsection (i) in its entirety

13. Page 2, line 19.
Strike: "(ii)"

14. Page 2, line 23.

Following: "the"

Strike: "state's"

Following: "and"

Insert: "of the agency eliminating the position"

15. Page 3, line 3.

Following: "If"

Insert: ", after a period of unemployment of at least 30 days,"

Following: "seek"

Insert: "chooses to seek or"

16. Page 3, lines 3 and 4.

Following: "job" on line 3

Strike: "IN THE STATE"

17. Page 3, line 5.

Following: "privatization"

Strike: ", "

Insert: "or"

Following: "reorganization"

Strike: ", "

Insert: "of an agency"

Following: "closure of"

Insert: "or reduction in force at"

18. Page 3, line 6.

Following: "institution"

Strike: "AGENCY"

Insert: "Institution"

19. Page 3, line 20.

Following: "employee's"

Insert: "annual"

20. Page 4, line 6.

Following: line 5

Insert: "{3) The provisions of subsections (2)(a) through (2)(c) apply for a period of no more than 24 months following termination of employment as a result of the privatization or reorganization of an agency or closure of or reduction in force at an institution."

Renumber: subsequent subsection

21. Page 4, line 11.

Following: "privatization"

Strike: ", "

Insert: "or"

22. Page 4, line 12.

Following: "reorganization"

Strike: ", "

Insert: "of an agency"

Following: "closure of"

Insert: "or reduction in force at"

Following: "institution"

Strike: "AGENCY"

Insert: "institution"

Signed:



Thomas E. Towe, Vice Chairman

MA 4-1-91
Rad. Coord.

SB 4-1 11:50
Sec. of Senate

HOUSE BILL NO. 643

INTRODUCED BY SQUIRES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION FOR STATE EMPLOYEES WHOSE POSITIONS ARE ELIMINATED AS A RESULT OF THE PRIVATIZATION, OR REORGANIZATION, OF A STATE AGENCY OR CLOSURE OF OR REDUCTION IN FORCE AT A STATE INSTITUTION AGENCY INSTITUTION."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 5] may be cited as the "State Employee Protection Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "AGENCY" MEANS AN AGENCY, AS DEFINED IN 2-18-101, BUT DOES NOT INCLUDE THE MONTANA UNIVERSITY SYSTEM.

{1}(2) "Employee" means a person employed by an institution AGENCY.

{2}--"institution" means any of the institutions or facilities listed in 53-1-104.

(3) "INSTITUTION" MEANS ANY OF THE INSTITUTIONS OR FACILITIES LISTED IN 53-1-202.

{3}(4) "Privatization" means contracting with a private-sector entity for services previously provided by

the state.

NEW SECTION. Section 3. General protection. An employee whose position is eliminated as a result of the privatization, OR reorganization, OF AN AGENCY or closure of OR REDUCTION IN FORCE AT an institution AGENCY INSTITUTION is entitled to:

(1) preference for job openings in other state institutions, departments, or agencies; and, PREFERENCE MUST BE GIVEN TO THE MORE SENIOR EMPLOYEE WHO MEETS MINIMAL JOB QUALIFICATIONS OR WHO CAN MEET JOB QUALIFICATIONS WITH RETRAINING AS PROVIDED IN [SECTION 4(1)(D)].

(2) access to all announcements of state job vacancies.

NEW SECTION. Section 4. Guaranteed wages -- retention of rights and benefits -- job training ---early-retirement. (1) If an employee transfers to another state job as a result of the privatization, OR reorganization, OF AN AGENCY or closure of OR REDUCTION IN FORCE AT an institution AGENCY INSTITUTION, the employee is entitled to:

(a) a wage or salary that is equivalent to or higher than the wage or salary of the employee's previous position;

(b) retention of all rights, AND benefits, ---and privileges held prior to the transfer, including:

{1}---all---collective-bargaining-rights-or-benefits-under existing-collective-bargaining-agreements; and

{2} the state's contribution to group health insurance;



1 (c) relocation expenses paid by the state FOR A
 2 QUALIFIED EMPLOYEE WHO HAS AT LEAST 5 YEARS OF SERVICE; AND

3 (d) access to retraining and career development
 4 programs at the state's expense; and OF THE AGENCY
 5 ELIMINATING THE POSITION IF THE EMPLOYEE HAS AT LEAST 5
 6 YEARS OF SERVICE AND THE TOTAL COSTS DO NOT EXCEED \$2,000.

7 ~~(e) job counseling and vocational guidance at the~~
 8 ~~state's expense.~~

9 (2) If, AFTER A PERIOD OF UNEMPLOYMENT OF AT LEAST 30
 10 DAYS, an employee chooses to seek CHOOSES TO SEEK OR SECURES
 11 a job IN-THE-STATE with an employer other than the state as
 12 a result of the privatization, OR reorganization, OF AN
 13 AGENCY or closure of OR REDUCTION IN FORCE AT an institution
 14 AGENCY INSTITUTION, the employee is entitled to:

15 (a) relocation expenses paid by the state IF THE
 16 EMPLOYEE HAS AT LEAST 5 YEARS OF SERVICE AND THE TOTAL
 17 RELOCATION COSTS DO NOT EXCEED \$1,000;

18 (b) access to retraining and career development
 19 programs at the state's expense IF THE EMPLOYEE HAS AT LEAST
 20 5 YEARS OF SERVICE AND THE TOTAL COSTS DO NOT EXCEED \$2,000;

21 (c) job counseling and vocational guidance at the
 22 state's expense FOR A PERIOD UP TO 6 MONTHS AND NOT
 23 EXCEEDING A TOTAL COST OF \$500;

24 (d) the continuation of employer contributions to the
 25 employee's group health insurance for 12 months or until the

1 terminating employee is employed, whichever is less, FOR AN
 2 EMPLOYEE WITH 5 YEARS OR MORE OF SERVICE; and

3 (e) severance pay equivalent to 5% of the employee's
 4 ANNUAL base wage or salary at the time of termination
 5 multiplied by the number of the employee's consecutive years
 6 of service ~~with the institution~~. The severance pay must be
 7 paid as a one-time, lump-sum payment to the employee.

8 ~~(3) An employee who is 50 years of age or older and who~~
 9 ~~chooses to retire as a result of the privatization,~~
 10 ~~reorganization, or closure of an institution is entitled to~~
 11 ~~an early retirement allowance equivalent to the allowance he~~
 12 ~~would have received if he had been a vested member of his~~
 13 ~~retirement system with 30 years of creditable service.~~

14 (3) THE PROVISIONS OF SUBSECTIONS (2)(A) THROUGH (2)(C)
 15 APPLY FOR A PERIOD OF NO MORE THAN 24 MONTHS FOLLOWING
 16 TERMINATION OF EMPLOYMENT AS A RESULT OF THE PRIVATIZATION
 17 OR REORGANIZATION OF AN AGENCY OR CLOSURE OF OR REDUCTION IN
 18 FORCE AT AN INSTITUTION.

19 ~~(4) (3) (4)~~ Nothing in this section may be interpreted as
 20 entitling an employee to lifetime employment or as
 21 protecting an employee against discharge for just cause.

22 NEW SECTION. Section 5. Adequate notice. An employee
 23 and his collective bargaining unit representatives must be
 24 given at least 6 months' notice prior to the privatization,
 25 OR reorganization, OF AN AGENCY or closure of OR REDUCTION

1 IN FORCE AT the institution ~~AGENCY~~ INSTITUTION for which the
2 employee works.

3 NEW SECTION. Section 6. Severability. If a part of
4 [this act] is invalid, all valid parts that are severable
5 from the invalid part remain in effect. If a part of [this
6 act] is invalid in one or more of its applications, the part
7 remains in effect in all valid applications that are
8 severable from the invalid applications.

9 NEW SECTION. Section 7. Codification instruction.
10 [Sections 1 through 5] are intended to be codified as an
11 integral part of Title 39, and the provisions of Title 39
12 apply to [sections 1 through 5].

-End-



State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

STAN STEPHENS
GOVERNOR

April 24, 1991

The Honorable Hal Harper
Speaker of the House
House of Representatives
Capitol Station
Helena, Montana 59620

The Honorable Joseph P. Mazurek
President
Montana State Senate
Capitol Station
Helena, Montana 59620

Dear Speaker Harper and President Mazurek:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto the adoption of House Bill 643, "AN ACT PROVIDING PROTECTION FOR STATE EMPLOYEES WHOSE POSITIONS ARE ELIMINATED AS A RESULT OF THE PRIVATIZATION, OR REORGANIZATION, OF A STATE AGENCY OR CLOSURE OF OR REDUCTION IN FORCE AT A STATE INSTITUTION AGENCY INSTITUTION."

House Bill 643 affects any reorganization or closure resulting in a reduction in force in state government, no matter what the cause. The legislation requires extensive notice prior to any reductions or layoffs. It also provides unnecessarily expensive benefits to any affected state employee. For example, any closure or reorganization that would include job loss would require six months prior notice no matter how immediate the need or funding shortage might be. The effect is to hamstring legislative policy makers and managers who may be forced to respond to immediate financial shortages.

In addition, House Bill 643 extends permanent protection of "all rights and benefits held . . ." Among other things, this protects an employee's wages at an equivalent or higher level. This protection exists no matter what type of position the employee subsequently holds. The consequence is that an employee must be rehired at their previous wage rate even if a position available is supposed to pay less. This can cause tremendous morale problems among existing employees in like positions. An agency may very well hesitate to rehire laid off employees when they would be required to pay a much higher salary. This thwarts

The Honorable Hal Harper
The Honorable Joseph P. Mazurek
April 24, 1991
Page Two

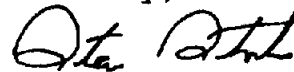
the intention of this administration to ensure that any employee affected by a reduction in force or reorganization is hired by other state agencies whenever possible.

Under House Bill 643, if a state employee were laid off and subsequently obtained a job with a private employer, they would receive relocation expenses of \$1000, career development training, job counseling, and substantial severance pay. All these benefits would be available for up to two years. Such costs would so unduly burden agencies that no reduction of the size and cost of state government could occur.

One of the very real impacts of House Bill 643 would be to force layoffs of state employees months prior to when they might ordinarily be affected. The extensive benefits granted to a state employee who is laid off cover a two year period and would require an agency contemplating a reduction in employees to accumulate necessary reserves to pay for these benefits. Often, the only way such reserves can be accumulated is to lay off the individuals much earlier than anticipated.

For these reasons, I find it necessary to veto House Bill 643.

Sincerely,



STAN STEPHENS
Governor