

STATE ADMINISTRATION
MARCH 13, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 8:00 a.m. on March 13, 1981, with Chairman Jerry Feda Presiding. All members were present except Representative O'Connell who was excused.

Chairman Feda opened the meeting to a hearing on SB 321.

SENATE BILL 321-SPONSOR, Senator Halligan, introduced this bill which permits the Board of Regents to designate as holidays the Friday following Thanksgiving, the Monday before Christmas or New Year's Day if either holiday falls on Tuesday, and the Friday after Christmas or New Year's Day if either holiday falls on a Thursday in exchange for the same number of legal holidays. He pointed out that this bill does not grant any additional holidays.

PROPOSERS

JACK NOBLE, Montana University Systems, stated that this exchange of holidays could amount to a substantial energy savings in the university system. He said that during the student holidays the staff in most of the buildings is working and there is no need to keep the buildings open. During the state holidays, the students are in school and some of the facilities are closed to them. These holidays could be coordinated to make the system work better. He also stated that they did not like the language in the bill that subjects them to collective bargaining with 17 different contracts however they are in favor of the bill. He suggested that the bill be amended.

TOM SCHNEIDER, M.P.E.A., stated support of the bill. He suggested that there be a coordination section in this bill with the language in HB 442 that was amended by the committee to read "or as scheduled by the employee or his supervisor".

OPPOSERS

There were no opposers present.

QUESTIONS BY THE COMMITTEE:

Mueller: Do you have any objection to the amendment proposed by Mr. Noble.

Halligan: No, I have no objection.

Senator Halligan closed the hearing on SB 321.

SENATE BILL 330-SPONSOR, Senator Himsl, introduced this bill at the request of the Department of Administration. This bill permits the state treasurer subject to the approval of the Board of Investments, to establish a securities lending program for state securities. All fees and proceeds earned by the lending program must be deposited in the funds that loaned the securities. A copy of Senator Himsl's testimony is attached and is EXHIBIT 1 of the minutes.

PROPOSERS

JAMES HOWETH, State Board of Investments, stated support of this bill.

OPPOSERS

There were no opposers present on SB 330.

QUESTIONS BY THE COMMITTEE:

Sales: How much will these fees be?

Himsl: That will be negotiable.

Senator Himsl closed the hearing on SB 330.

SENATE BILL 389-SPONSOR, Senator Himsl, introduced this bill at the request of the Legislative Audit Committee. This bill reestablishes for six additional years the Board of Nursing Home Administrators that is scheduled to terminate July 1, 1981. A copy of Senator Himsl's explanation of this bill is attached and is EXHIBIT 2 of the minutes.

PROPOSERS

ED CARNEY, Board of Nursing Home Administrators, stated their support of the bill. See EXHIBIT 3 of the minutes.

OPPOSERS

There were no opposers to SB 389.

QUESTIONS BY THE COMMITTEE:

Kropp: There is no change in the make-up of the Board?

Himsl: That is correct.

Senator Hims1 closed the hearing on SB 389.

SENATE BILL 294-SPONSOR, Senator Hammond, introduced this bill that provides that deputy directors, division administrators, and bureau chiefs serve at the pleasure of their department heads and are exempt from grievance procedures and personnel policies, rules, or standards adopted by the department. It also exempts these state employees from the provision in the Human Rights Act prohibiting discrimination based on political beliefs.

PROPOSERS

MORRIS BRUSETT, Department of Administration, appeared in support of this bill. He made reference to the letter submitted to the committee by Governor Ted Schwinden, which is EXHIBIT 4 of the minutes, in which the governor stated that he would like to see the bill restored to its original form. Also attached to the minutes is a prepared document containing Mr. Brusett's discussion points and a brief summary of the bill. This statement is EXHIBIT 5 of the minutes. One other point that Mr. Brusett made was that without this authority the department may add to what he referred to as a "bloated bureaucracy". A department head may create a position in order to get around a problem with an employee.

CARROLL SOUTH, Department of Institutions, stated that it is very difficult to get rid of incompetent employees under the present system. Sometimes, he stated, you end up in a court proceedings. He said that it is very important that the department head has the ability to fire an employee if he feels that employee is not operating in the best interest of the department. He stated that he wanted to make it clear that he has had no problems in his own department but if he did he would want this authority.

JIM GLOSSER, Montana Department of Livestock, stated that it is his personal feelings that no administrator has any reason to concern himself over this type of legislation if he is doing his job and following the directions of the department directors.

LES GRAHAM, Department of Livestock, concurred with Mr. Glosser.

SB 294 (cont.)

JOHN LAFAVER, stated that he supports the bill as originally introduced. He said that the question boils down to one of whether the governor should serve as an advisory council to the bureaucracy. He stated that he has served at the pleasure of the government for 10-1/2 years and never was he asked to hire or fire someone based on political consideration.

DAVID LACKMAN, lobbyist for the Montana Public Health Assoc., submitted a copy of his written testimony for the record. A copy is attached and is EXHIBIT 6 of the minutes.

OPPONENTS

H. S. HANSON, representing the Montana Technical Council, gave testimony in opposition to SB 294. A copy of his prepared testimony is attached and is EXHIBIT 7 of the minutes. Mr. Hanson also submitted an "organizational schedule" to the members of the committee. A copy is attached and is EXHIBIT 8 of the minutes.

VINCE MATULE, speaking as a taxpayer of the state of Montana, testified in opposition to SB 294. A copy of his testimony is EXHIBIT 9 of the minutes.

ROBERT CARROLL, representing himself, gave testimony in opposition to this bill. A copy of his prepared statement is attached and is EXHIBIT 10 of the minutes.

HOWARD HEFFELFINGER, submitted testimony to the committee in opposition to this bill. A copy of his testimony is attached and is EXHIBIT 11 of the minutes.

SENATOR JOE MAZUREK, submitted testimony to the committee in opposition to SB 294. A copy of his statement is attached and is EXHIBIT 12 of the minutes. Included in this exhibit is a list of positions in each agency which would be affected by passage of SB 294.

LARRY HUSS, representing Montana Contractors Assoc., said that in relation to the completion of Montana highways, we feel the staff in the Highway Dept. is working fine and this bill might affect a rapid change-over of employees that could cause a delay in construction.

SB 294 (cont.)

LARRY WEINBURG, representing himself, stated that this bill is "either a good approach to poor management or a poor approach to good management but in no case is it a good approach to good management". He stated that the potential for "political patronage" is a valid issue. He said that he disagrees with the proponents position that there is not the ability to get rid of incompetent employees. There are procedures to be followed but most directors are reluctant to do this. This bill, he stated, does not consider the fact that the director may be the one who is incompetent. He also said that there are supervisors in many departments who have far more power than bureau chiefs but this bill does not address them.

TOM SCHNEIDER, M.P.E.A., stated that they oppose the bill with the inclusion of "bureau chiefs". He also said that if the committee considers amending this bill he suggested that they do not base this on "grade level".

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REPRESENTATIVE BOBBY SPILKER, representing herself, stated that the state of Montana is blessed with many public servants and she is afraid that this bill will affect them as well as bureaucrats. She said that she has considered the idea that some other form of government must be the answer to the frustration in dealing with the government that I have felt so many times. But the other system is called "benevolent dictatorship". Then after thinking about it some more, she stated, I come to the final conclusion that the only "benevolent dictator" I want is me! I know that we must work within the system that we have. She said that the governor has made some fine appointments and he should have faith in them and trust that they will do the things necessary to get the wrong people out of state government. This process, she stated can be very long and cumbersome, she said, but this is the result of a lot of bureaucrats writing a lot of rules and regulations that may or may not be needed. We need to reevaluate those policies and not the law.

There were no questions by the committee.

Senator Hammond closed the hearing on Senate Bill 294. He said that the "due process" referred to as the means of getting rid of incompetent employees is merely the right to passive resistance. He said that he would not be opposed to an amendment removing bureau chiefs. He said that all this opposition looks like a "crusade for security".

SENATE BILL 350-SPONSOR, Representative McBride, presented this bill to the committee at the request of Senator Stimatz who was unable to attend the hearing. This bill, requested by the Public Employees' Retirement board, permits the payment of administrative expenses for the Public Employees' Retirement Division from the Judges', Highway Patrolmen's, Sheriffs', Game Wardens' and Municipal Police Officers' Retirement funds. Before July 15 of each year, the Public Employees' Retirement Board may transfer from these funds the amount needed to cover administrative expenses and deposit the money in the Public Employees' Retirement System account.

PROPONENTS

LARRY NACHTSHEIM, P.E.R.D. appeared in support of SB 350. a copy of his prepared testimony is attached and is EXHIBIT 13 of the minutes.

TOM SCHNEDER, P.E.R.S. stated his support of this bill.

OPPONENTS

There were no opponents present to testify on SB 350.

QUESTIONS BY THE COMMITTEE

Sales: Do you go through appropriations for your expenses?

Nachtsheim: Yes, for all of our expenses.

Representative McBride closed the hearing on SB 350.

EXECUTIVE SESSION

SENATE BILL 350

BE CONCURRED IN

Representative Sales moved that SB 350 BE CONCURRED IN. A vote was taken and carried unanimously. Representative O'Connell was absent.

Representative McBride will carry SB 350 in the House.

EXECUTIVE SESSION (cont.)

SENATE BILL 449

SUB-COMMITTEE

Hearing was held 3/10/81.

Mueller
McBride
Spilker

Discussion on this bill was held by the committee. There was concern by several members as to whether political subdivisions should be included. Morris Brusett and Trish Moore were present at the executive session to answer questions for the committee. Following detailed discussion, Chairman Feda assigned Representatives Mueller, McBride and Spilker to a sub-committee on SB 449.

SENATE BILL 294

BE NOT CONCURRED
AS AMENDED

Representative Phillips moved to amend SB 294 by striking Bureau Chiefs throughout the bill. A vote was taken and carried unanimously with one member absent.

Representative Spilker moved to strike section 2 in its entirety. Following discussion a vote was taken and carried unanimously.

Representative Kanduch moved that SB 294 BE NOT CONCURRED IN AS AMENDED.

Representative McBride said that this bill is a step back toward the political patronage system.

Representative Winslow stated that the present system does have some problems but this bill is not the answer.

A vote was taken on the motion and carried with 12 YES, 6 NO and 1 absent. Representatives Smith, Ryan, Phillips, Kropp, Hanson, and Briggs voted No.

A copy of the amendments is attached and is EXHIBIT 14 of the minutes.

SENATE BILL 321

HELD FOR AMENDMENTS
see executive session
3/17/81

Researcher, Lois Menzies explained to the committee that SB 321 would need a coordination section with HB 442. Representative Phillips moved that the committee also strike the words "subject to collective bargaining".

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EXECUTIVE SESSION (cont.)

SB 321 (cont.)

A vote was taken on the motion and carried with 15 YES,
1 NO and 3 members absent for this vote.

Chairman Feda said that the committee would not take
any further action on this bill until Tuesday, March 17,
which would give the researcher time to work on the
amendments.

SENATE BILL 330

BE CONCURRED IN

Representative Briggs moved that SB 330 BE CONCURRED IN.
A vote was taken and carried unanimously. Representative
Briggs was assigned to carry this bill in the House.

SENATE BILL 389

BE CONCURRED IN
Consent Calendar

Representative Phillips moved that SB 389 BE CONCURRED IN.
A vote carried unanimously.

Representative Kropp move to place SB 389 on the Consent
Calendar. A vote carried unanimously.

A motion was made to adjourn at 10:30 a.m.

Respectfully submitted,



G. C. "JERRY" FEDA, Chairman

Cathy Martin-Secretary

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Read the bill -

This is an interesting piece of legislation and I invite your attention because it may appear complicated when really it isn't.

Our State Board of Investments has some \$1 billion ¹⁰⁰/₁₀₀ million stocks and bonds in a "Custodian Agreement" with Manufacturers Hanover Trust. They hold these securities, collect dividends and interest, execute orders by the State Board, and account to the Board with distributions.

The Hanover Trust has a brokers market where brokers cover short sales. They propose that the state designate securities it does not intend to sell and put these in a "loan" account. Hanover then will act as a brokers' broker or agent for the state, and guarantee that the loaned securities are fully collateralized by either cash or securities of equal value.

Market fluxations are protected by a right to call for more coverage or even release surplus securities or cash. Any large cash collateral received will be invested in the Hanover Corporation and the notes will earn for the state.

If the cash collateral is not equal to \$100,000 Hanover may not borrow the money and if not, the money will be put in short term money market instruments.

The agreement provides that Hanover collect a fee from the borrowing brokers. A percentage of income earned is allocated among participants for the use of the "available securities" which list, the state can change upon reasonable notice as the list is revised from time to time.

Senator Himsel

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This is not a new program, I am told Oregon, Minnesota, California, Utah, Wyoming and Connecticut have such an agreement.

This is a riskless transaction. Hanover indemnifies the loan that is--provides security against a loss.

It is estimated the state can make \$400,000 to \$500,000 a year, with no risk -- simply allowing our securities--fully collateralized to be used--to earn more money. See part II of attachment

I trust you will find this a prudent money management procedure and approve the bill.

I do suggest an amendment - making the authorization effective on passage and approval.



34 So. Last Chance Mall, No. 1
Helena, Montana 59601
Telephone: 406-443-2876

March 13, 1981

HOUSE STATE ADMINISTRATION COMMITTEE

SENATE BILL 389

The Board of Nursing Home Administrators, re-established under Senate Bill 389, has performed its job well. Its members have demonstrated a deep concern for the welfare of nursing home residents and an understanding of the problems of recruiting and training nursing home administrators in a state as large and varied as Montana. The Board is presently involved in a cooperative effort with members of the profession to develop a plan for the gradual upgrading of licensure requirements. Development of an administrator-in-training program is being considered--and if developed will go a long way toward balancing a situation where the desire to upgrade is undermined by the lack of formal nursing home administration training programs in the state.

Continuation of this independent consumer oriented board will insure that the interests of the profession and the consumers of nursing home care will continue to be met.

We urge that you vote DO PASS on Senate Bill 389.

ROSE M. SKOOG
Executive Director, Montana Nursing
Home Association

Submitted by Mr. Carney

EXPLANATION OF SENATE BILL NO. 389
TO REESTABLISH THE BOARD OF NURSING HOME ADMINISTRATORS
(Sponsored by Senator Hims1)

As a result of the sunset performance audit and public hearings, the Legislative Audit Committee recommends that the Board of Nursing Home Administrators be reestablished pursuant to the sunset law.

The board licenses and regulates nursing home administrators. Federal statutes specify that a state must have a program to license administrators for the state to receive Medicaid funds. Such a program must provide that no nursing home may be operated except under the supervision of a licensed administrator. The Department of Health and Environmental Sciences requires by rule that a nursing home administrator be licensed so that the nursing home can be a licensed health facility.

Sections 1 and 2 of Senate Bill 389 reestablish the board and its present regulation for 6 years as required by the sunset law.

JP/ke



State of Montana
Office of the Governor
Helena 59620

EXHIBIT 4

TED SCHWINDEN
GOVERNOR

March 5, 1981

Senator H. W. "Swede" Hammond
Montana Senate
State Capitol
Helena, Montana 59620

Dear Senator *Swede* Hammond:

I would like to personally thank you for your efforts on SB 294. I appreciate the work you have done in attempting to give me, as Chief Executive, those necessary tools to make government serve people better. Having deputy directors and division administrators serve at the pleasure of the department heads will provide for a more efficient implementation of an administration's policies. It is imperative that people in policy-making positions reflect the policies of the incumbent Chief Executive.

SB 294 as introduced accomplished that purpose. I am concerned that the amendments placed on the bill since introduction may very well be counter-productive. Very few bureau chiefs are in policy-making positions. Our purposes will be better served if we use the next two years to gain experience and demonstrate our responsible use of the authority before providing that bureau chiefs would also serve at the pleasure of department heads. Should it appear at that time that the public interest requires that change, I will then request that such legislation be introduced.

Other amendments added to the bill tend to jeopardize the right of a state employee to hold political beliefs and to speak out on them when those beliefs are contrary to mine or any other Chief Executive. Political belief should not be a reason for hiring or for firing public employees. The Constitution of the State of Montana prohibits discrimination on the basis of political ideas. I totally support that prohibition. For the above reasons, I respectfully urge that the bill be restored to its original form.

Sincerely,

A handwritten signature of Ted Schwinden, written in dark ink, is located below the word "Sincerely,".

TED SCHWINDEN
Governor

cc: Members State Administration Committee

Senate Bill 294 - Amending Executive Reorganization Act

Discussion Points:

1. Purpose of bill is to get ahold of government, to make it responsive to the elected executive.
2. Most deputies and division administrators are competent professionals - intent is not to replace them with political cronies - but to insure that not only do these positions require technical expertise but also a commitment to carry out the policy initiatives of the governor and his cabinet.
3. Other states (and the Federal government) have recognized the need to build in responsiveness to the bureaucratic level directly below cabinet officials.
4. If the state ran like any other multi-million dollar corporation, top management would not only be evaluated on their qualifications and work performance but also on their "management philosophy" or "attitude" and their commitment of the policies and goals of the chief executive.
5. Deputies and division administrators are still protected by the Human Rights Act from political discrimination.

Summary:

This bill provides a governor and his cabinet with the flexibility to treat top management in state government as key policymakers. The state has never really defined the job of state management. This bill does just that. It requires accountability of these peoples; and requires them to carry out the policies of the elected executive. When the public elects a governor, they expect that person to set the direction of government and expect results immediately. This measure will enhance a governor's ability to ensure that his policies are carried out.

Dismissed.

Senate Bill 294 (Hammond/Story/Jonsson/Hafferman) Amending 2-15-112 to require deputy directors and division administrators to serve at the pleasure of department directors and department heads. HEARING : House State Administration , Friday , March 13, '81 8:00 A.M. rm 436

I am David Lackman , lobbyist for the Montana Public Health Association , and formerly Administrator of the Laboratory Division of the Department of Health and Environmental Sciences . I am testifying as an opponent of SB 294 as amended .

When SB 294 was heard in Senate State Administration , I supported it. However , after they amended it to include Bureau Chiefs and to abolish civil rights protection , I no longer support it. At second reading in the Senate , Senator Mazurek proposed an amendment to remove Bureau Chiefs from the bill . It failed by a vote of 17 to 29 ; and the bill as amended passed 35 to 10.

My support of the original bill was based on 47 years experience in university, military, and civil professional and administrative activity. It is important to have harmonious relationships among policy makers so their efforts will have some consistency. I have seen many instances where the Federal Civil Service system has worked against this concept. The creation of a federal executive service helped somewhat in correcting this.

Now for Montana ! When you reach the Bureau Chief level where technical and professional skills are of utmost importance , a career merit system is most desirable. As an example , the chief of the Preventive Health Services Bureau in the Dept. of Health & Env. Sciences requires an M.D. ; plus special training in epidemiology. It has been necessary to go out-of-state to find such a person. One would hesitate to bring in a top professional person to fill the position if it was subject to political circumstances.

Senator Mazurek estimated that , with the inclusion of Bureau Chiefs , over 100 positions in state government would be affected by SB 294. This is too many for Montana ; and also you have the problem of federal requirements in the six merit system agencies. I believe the Dept. of Health & E.S. now is busy changing position titles. This doesn't seem to me to be a good solution. A Bureau Chief is a Bureau Chief is a Bureau Chief !

I urge your defeat of the Senate amendments to SB 294 .

David B. Lackman , Ph.D.
March 12, 1981

H. S. Hanson - Mont. Tech. Council

SENATE BILL 294

We support the replacement of the directors and deputy directors at the whim of the Governor. That office is entitled to have their people at the head of the departments to ensure due implementation of their plan. But we object very strongly to the inclusion of the administrators and bureau chiefs. These are the people who know how the system works, and what's happened in the past. Why reinvent the wheel every four years.

I was informed that there are around 275 to 300 in this group.

Montana Tech Council is concerned because we work with these people on a daily basis, and quite frankly are concerned that their appointment will be based on political patronage rather than competence. I, personally, can remember a couple of instances in the past when the person's politics was the prime consideration for a position. That occurred when I was a Highway Commissioner. This bill expands that opportunity.

To give you some idea as to the effect, here is the organizational part for the highway. The circled items are those that can be replaced for political reasons. Please keep in mind that all incompetents can now be replaced, but it takes a minimum of two months and documentation for that action. That's the way it should be, but this bill will provide for political firing.

It is different working for private enterprise. Financial incentives are the main motivation, and if the individual cannot show a profit on his or her endeavors, you fire them. But if they produce, the opportunities are limited only by the person's capabilities.

But in government, advancement in one's chosen field is the only guideline for evaluating your accomplishments and obtaining the personal satisfaction that we all need in evaluating our working life.

This bill reduces that opportunity. It further encourages the competent individuals to move on and places the state in a training position for the private sector. I know of two administrators who have turned down Director appointments because of the political nature.

We, the people of Montana, need a certain stability in state government, regardless of who is in the Governor's office. I cannot accept the statement that stability will occur when the working positions are filled with political appointees. If word comes from Mount High to fire someone, purchase a specific product, award a contract to Mr. Big, we will have nothing but fun and games, as has occurred in the past.

The capable administrator of bureau chief does not, nor will they, operate under those conditions.

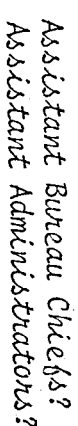
It was stated at the Senate hearing by a senator, and I'm paraphrasing, "Let's face facts, they will have to pay to keep their jobs - but under the circumstances that may not be all that bad."

The argument that you have to have a Governor's team is not valid as far as I'm concerned - not in the working trenches. There we need experience - not political appointees. The old adage, "To the victor belongs the spoils," is very valid and appears to be the basis of this bill. I can agree with that, as long as it is limited to the

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directors and assistant directors, but not the working staff who are spending my tax dollars.

Please consider this bill closely.



Standard Deviation

March 13, 1981

Mr. Chairman and Members of the Committee:

My name is Vince Matule. I am speaking as a taxpayer of the state of Montana. I urge you to vote against Senate Bill No. 294. I am not employed by the State of Montana nor do I intend to be in the future. I am however very interested in the functioning of State Government and for that reason feel compelled to speak out against this bill.

There is a terrible tendency for overkill in our country. We see a problem in government and we immediately react by passing a law which may hinder the problem from happening again. Unfortunately, in that process, we also hinder the operation of many good functions. Or we create new problems which are far more serious or destructive than the corrected problem. This bill is such an example. As has been ably stated in the past, this bill is one which offers a cure which is worse than the disease.

We should be clear about the problems we are addressing when we set out to offer a solution. One of the problem which this bill addresses is the inability of a new administration to impact state government in a significant way. An additional problem may be that some feel that incompetent people are serving in leadership roles in state government and there is no legal way to remove them. The first problem speaks to leadership; the second to the merit system. More on these two items later.

First let us look at the ramifications of this bill. They are indeed extreme. A return to the old spoils system which so many dedicated people worked so hard, for so long to get rid of. This was a system characterized by blackmailed employees who contributed or else, by cronyism, and by the employment of many inept people whose work skills were limited to licking stamps, knocking on doors, and distributing campaign material. Surely this bill has some benefits to politicians but it offers few protections for both the employees and the citizenry of the state of Montana.

In addition this bill has the potential of destroying the incentive for some of the best state employees. Our present system is set up to reward good workers by offering them the opportunity for promotions. Since high level positions in state government pay less than an employee might get elsewhere, the government offers other incentives such as the career ladder. Getting ahead under this bill would create^a very high risk for a security-minded, family-oriented individual. Undoubtedly opportunities for promotions would be passed up and less qualified people would fill these positions.

One person lobbying for this bill in the Senate has said that competency is job protection. We all know that that is a terribly naive notion. Some here would agree that Mr. Kissinger was competent. Those who wouldn't would probably agree that Mr. Muskie was competent. In either case both men lost their jobs. Mr. Jon Meredith was told that he was very competent and able, and then he was told to clear out his desk. No, this bill is not set up in order to reward competency. Rather the premium here is loyalty. Where we would all agree that loyalty is an important trait, most of us would not agree that it is the most fundamental trait for state employees. Hitler has demonstrated long ago to the world the dangers of utilizing loyalty as a single criteria for success. Honesty certainly takes priority. Mr. Nixon had a great deal of problems as President because his people were loyal. They were so loyal that they protected him from criticism and kept us from the truth. They kept him out of touch with the people. Mr. Carter had the same problem.

The government of the state of Montana is too important to place all management positions under the control of a single person. It is true that all high levels positions will not be filled by people who agree totally with every policy of the incoming administration. Such agreement can be very stifling to government. I have never learned anything from anyone who simply agrees with what I say. I have only learned when someone has disagreed and then they have been able to convince me that I was wrong. We must be very careful not to silence state employees by making their jobs subject to the whim of department directors and

department heads. Remember these people are not elected and have little direct accountability to the people.

This bill offers a very simple and potential scary solution to a very complex problem. The bill does not speak to leadership nor to corrective action within the present merit system. However, we too would be naive if we did not acknowledge that there are problems. And we would be of little help if we criticized this bill and do not offer a better solution. For that reason I suggest to you the possibility of a special interim session task force to work on the problems addressed above. Such a task force would be charged with taking an indepth look at the functioning of state government, especially at the management level. It would be made up of some legislators, high ranking state employees - both appointees and career workers, and employers and employees from the private or business sector. They would study the merit system looking for ways to make this system more responsive to the needs of government. It could include some qualifications for government appointees as well as review job descriptions to see that accountability can be assured. This task force would then make recommendations to the 48th Legislature.

Finally I want to say that the real ingredient for effective state government and for optimum working relationships between career workers and politicians is leadership. Not blind leadership which dictates employees do as I say or leave, but leadership which inspires employees to work at peak capacity. This leadership will maximize the potential of employees. And it must be humane leadership which takes into account more than loyalty. It must capitalize on the pride of the employees to do a good job. And finally it is the leadership which scurries to the defense of state employees when they are unfairly maligned by the myths of old. A little support for a job well done will bring ^{OUT A} little more competency in all of us. Bills such as this one will do the opposite. I urge you to vote No to Senate Bill No. 294.

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March 13, 1981

Mr. Jerry Feda, Chairman
State Administration Committee
House of Representatives
State Capitol
Helena, Montana 59620

Dear Representative Feda:

Mr. Chairman, ladies and gentlemen of the Committee, thank you for this opportunity to testify.

Senate Bill 294 is one of those ideas that is analogous to the cliché, "Government ought to be run like a business." Government and business have entirely separate and different functions, even though both should desire maximum operating efficiency. Only a dictatorship could achieve the rate of efficiency theoretically attainable by business. The late Josef Stalin said, "Total conformity is attainable only in the cemetery."

Presumably, government bureau chiefs, and higher, especially in scientifically-oriented agencies, reach their positions as a result of their professional merits, not as a result of partisan politics. People being what they are, many government employees in managerial jobs are excellent, most are competent, and a few are slobs. Under the present system, any department director worthy of the position can get rid of an incompetent person rather easily, or at least nudge them out of a particular position.

My own background includes 4 years in the federal government (military), 7 years in industry, 7 years in state government, and 9 years in business. From this perspective, I think SB 294 needs drastic revision at least, and quiet burial at best.

At present, SB 294 would affect about 300 people ranging from Grade 10 to Grade 24. It's pretty far fetched to think that a range that extensive needs to be "reached" by the long arm of any governor. Also, peculiarly, a number of positions at Grade 18 and above, are exempt from the provisions of the bill. This odd form of discrimination should be rectified.

We should remember that Montana history is replete with examples of department heads, appointed by governors, confirmed by the Senate, who went off the deep end, and the work of the departments they ran was partially saved from irreparable harm and scandal because of the conduct of their high level professional staffs. No one is omniscient, and even governors and senators can be fooled. If SB 294 had been law at the time, some earlier governors would have been embarrassed, perhaps beyond political salvation.

Mr. Jerry Feda, Chairman
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I urge you to at least amend the bill by eliminating job titles and base the bill on grade level alone, say Grade 20 and higher.

You will undoubtedly hear two basic arguments, pro and con. One will be that the person running the government should be able to institute his/her "own team" if they are to be held responsible for doing a respectable job of governing. On the other hand, you will hear that government should be professional and objective and beyond the reach of partisan politics.

At present, we have a compromise whereby the department directors serve at the pleasure of the governor, with which I heartily concur.

Ideally, one expects benign integrity in government from top to bottom. History and experience have taught us to reinforce the ideals with a considerable number of checks and balances. As an interested observer of past and present history, my conclusion is that we make it easier for our elected officials to preserve their ideals, and our image of them if we also carefully preserve the necessary checks and balances. Thus, logically, SB 294 should die a speedy, unlamented death.

I've known every governor for the last thirty-some years. I have every confidence that the present governor is a brilliant, professional, humane and warm individual of utter integrity.

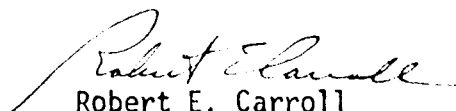
However, there will be other governors as time goes by. It is far more the system itself that must be addressed, not the individuals occupying its positions at any given moment in time, in considering SB 294. At times, elected officials become very like Jesus--if you are not with them, you are against them. It's very difficult to do a professional job with a political threat over your shoulder.

As Lord Acton said so long ago, "Power corrupts and absolute power corrupts absolutely." To our regret, history has proven his generalization to be something we should acutely keep in mind.

In conclusion, I reiterate that any department head who understands his/her own function can rid himself of an administrator, supervisor, bureau chief, or even the janitor, rather handily. My suggestion is to leave things so they have to work at it a bit.

I sincerely appreciate your taking the time to hear this. I have no personal interests (or relatives on the state payroll) other than a deep and abiding interest in our government.

Sincerely,


Robert E. Carroll

March 12, 1981

Representative G.C. "Jerry" Feda
Chairman
House State Administration Committee
Montana House of Representatives
State Capitol Building
Helena, MT 59601

Dear Mr. Chairman and Committee Members:

I am submitting this statement to you concerning Senate Bill 294, which would have division administrators and bureau chiefs in state government serve at the pleasure of department directors. Under terms of the bill, as you know, such employees could be discharged at any time without recourse to grievance procedures. I am very disturbed by the implications of this piece of legislation, both as a state employee and as a citizen/taxpayer.

I wish to emphasize that my concern over this measure goes far beyond my own job; I have never been worried about my ability to secure employment. At the present time I serve as a bureau chief in the Liquor Division, Department of Revenue. My job and the promotions that preceded it were never acquired because of political considerations. It bothers me that up to this point in time I have been regarded as a classified, career state employee who obtained my job and promotions on the basis of ability, and if this bill passes I apparently revert to the status of a political appointee. I do not like to see an ominous step backward towards a system where political patronage constitutes the primary criteria whereby someone acquires or continues in a job as a public employee.

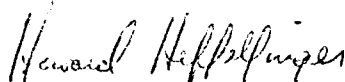
No one would deny the right of the state or any other employer to be able to hire, fire, and discipline workers on the basis of competency. I believe competency is absolutely irrelevant to this bill, however. Reasonable and equitable procedures currently exist for dealing with employees as far as proficiency and competency of work are concerned.

It seems to me the present state personnel system has worked out well over the past several years with most state employees categorized under the pay and classification plan and no politics whatsoever involved in determining pay and grade levels. Department directors preside over the system with the understanding that they are appointed by, and serve at the pleasure of, the governor. Directors are in a position to implement a governor's ideas and policies through division administrators and others at various levels of management throughout the government. The latter are obligated to follow directors' orders assuming, obviously, that they fall within existing laws and regulations. If they don't, they may be fired for cause. Under such circumstances, what other reasons would exist for a measure such as S.B. 294 other than to provide jobs for persons as payment for political services rendered? Such reasons, however, have never made for good government.

In my opinion, the citizens and taxpayers of Montana deserve as high a level of nonpartisan professionalism as possible from the persons who staff their state government. State employees should have the right to work under reasonable conditions of job security and freedom from improper influence; free from a political sword hanging over their heads that if they ever do anything perceived as politically objectionable by their bosses their employment will be immediately terminated without recourse to make way for someone else whose sole claim to preference for a position is the fact that, regardless of individual merit or ability, they somehow enjoy greater political compatibility with a superior.

For the above reasons I hope that you will recommend that this bill not pass the House. I do not believe it is in the best interests of state government. Thank you.

Sincerely yours,

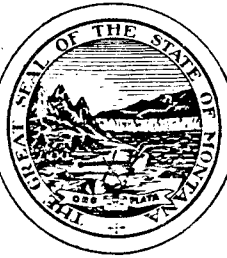
A handwritten signature in cursive script, reading "Howard Heffelfinger". The signature is written in dark ink and is positioned above the printed name.

Howard Heffelfinger

Mazurek

DEPARTMENT OF ADMINISTRATION
DIRECTOR'S OFFICE

EXHIBIT 12



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

(406) 449-2032

HELENA, MONTANA 59620

March 4, 1981

Senator Joseph Mazurek
Montana Senate
Capitol Building
Helena, Montana 59601

Dear Senator Mazurek:

Attached is a list of positions in each agency which would be affected by passage of S.B. 294.

As of February 6, 1981, our data shows 117 deputies and division administrators and 150 bureau chiefs. Not included in these figures are similar positions in departments headed by elected officials; 26 positions in various state institutions which have titles such as Superintendent, Hospital Administrator, Warden; 33 positions titled Assistant Administrator, and 9 positions titled Assistant Bureau Chief. It is not clear whether these positions will be affected by the bill.

For your information, most deputy directors and division administrators are now classified as career executives, although they retain their former titles as "working" titles. This is the result of efforts to identify management - related duties and skills common to these jobs. The effort continues with bureau chiefs whose classification titles will become (Occupation) Program Manager.

If you need further information, please contact me or Trish Moore, Personnel Division.

Sincerely,

Morris

Morris L. Brusett
Director

Total Chiefs, Administrators, and CEA's, etc.
Dated February 6, 1981

3101 - Governor's Office - A - 4

3201 - Secretary of State - C - 5

A - 2

Chief Deputy / Secretary of State is classified - 1

3401 - Auditors - C - 2

Asst. Admin. - 1

3501 - OSPI - No Chiefs, Administrators or Deputy Directors

4107 - Crime Control Division - C - 3

A - 1

Asst. Admin. - 1

4110 - Justice - C - 7

Asst. C - 3

Asst. Admin. - 1

4201 - Public Service Regulations - C - 1

Asst. Admin. - 2

A - 1

5117 - Historical Society - A - 1

5201 - Fish, Wildlife and Parks - C - 10

CEA "A" - 9

Asst. Admin. - 5

5301 - Health - C - 14

CEA "A" - 6

A - 1

5401 - Highways - C - 18

Asst. C - 3

A - 1

Asst. A - 3

CEA "A" - 11

5501 - Lands - C - 8

A - 2

CEA "A" - 1

5603 - Livestock - C - 6

Asst. C - 1

A - 1

CEA "A" - 1

5706 - N.R.C. - C - 10

Asst. Admin. - 4

CEA "A" - 6

CEA = Career Executive
Assignment
(most deputies and
administrators)
C = Bureau Chiefs
A = Administrators not in
usually Legal Dir
Administration

5801 - Revenue - C - 14

A - 4

Asst. A - 7

CEA "A" - 9

6101 - Administration - C - 22

Asst. C - 2

A - 2

Asst. A - 5

CEA "A" - 14

6201 - Agriculture - C - 2

A - 1

CEA "A" - 2

6305 - Business Regulations - C - 1

A - 4

Asst. A - 3

CEA "A" - 1

6401 - Institutions - C - 6

A - 1

CEA "A" - 5

6402 - Institution Superintendent - 1

6404 - Nursing Serv. Director - 1

Institution Superint. - 1

6405 - Eastmont - Institution Superint. - 1

6406 - Treatment & Rehabilitation Director - 1

Nursing Serv. - 1

Social Serv. - 1

Hosp. Admin. - 1

Inst. Supt. - 1

6407 - Mountain View School - Instit. Supt. - 1

6408 - Pine Hills - Instit. Supt. - 1

C - 1

6409 - Prison - Instit. Supt. - 1

Deputy Warden - 1

Associate Warden - 3

6410 - Swan River - Instit. Supt. - 1

6411 - Veterans Home - Instit. Supt. - 1

6412 - Warm Springs - C - 4

D - 1

Hosp. Admin. - 1

Instit. Supt. - 1

6505 - DCA - Asst. Admin. - 4
C - 10
A - 5
CEA "A" - 5

6601 - DOLI - C - 3
Asst. Admin. - 1
CEA "A" - 4

6602 - ESD - C - 3
Asst. Chf. - 1
CEA "A" - 1

6603 - Wrks. Compensation Div. - C - 2
Asst. C - 2
A - 1
Asst. Admin. - 1
CEA "A" - 2

6701 - Adjutant General - A - 1

6901 - SRS - C - 13
A - 1
CEA "A" - 13

C 417

S B 350

Larry Nachtigall
PER

HIGHWAY PATROLMEN'S RETIREMENT SYSTEM, SHERIFFS' RETIREMENT SYSTEM, GAME WARDENS' RETIREMENT SYSTEM, JUDGES' RETIREMENT SYSTEM and MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM.

PURPOSE: To provide uniform statutory authority for distributing administrative expenses of the Public Employees' Retirement Division among all the systems administered by the Division.

PROS AND CONS: The current method of distributing administrative expenses among the smaller retirement systems administered by the Retirement Division is not based on the same statutory authority. In the case of the Game Wardens', three-tenths of one percent of salary is the statutory basis for payment of administrative expenses of that system, while the Sheriffs' Retirement System and the Municipal Police Officers' Retirement System have no statutory authority for the systems to pay any of the administrative costs. In the 1979-1980 biennium, the P.E.P.D. received \$2,000 per year from the General Fund for the Highway Patrol; \$2,000 per year from the Judges' Retirement System and \$1,000 per year from the Volunteer Firemen's Fund. Without an elaborate cost accounting system, any allocation of administrative expenses is arbitrary and there may be a question of whether any of the systems should contribute to the administrative expense when adequate funding is available from the Social Security Interest Income. With the change in the depositing procedures from quarterly to monthly, the Social Security funds may not be adequate in the future to pay all of the administrative expense and the statute and mechanism should be in place in that event. We do not anticipate this occurring in the next biennium, however, we have only been on a monthly depositing procedure since July 1st of 1980 and have very little experience upon which to base any long range projections.

FINANCIAL IMPACT: None

PRIOR LEGISLATIVE HISTORY: None

EXAMPLE OF HARM: None

INTERESTED PARTIES: This bill was introduced in response to a recommendation of the

STATE ADMINISTRATION

MARCH 13, 1981

HOUSE AMENDMENTS TO SENATE BILL 294:

1. Title, line 5.
Following: line 4
Strike: "SECTIONS"
Insert: "SECTION"
Following: "2-15-112"
Strike: "AND 49-2-308"
2. Title, line 6.
Following: "AND"
Strike: ","
Insert: "AND"
Following: "ADMINISTRATORS"
Strike: ", AND BUREAUCHIEFS"
3. Page 2, line 25.
Following: "deputy"
Strike: ".DEPUTY"
Insert: ", including appointment of deputy"
Following: "and"
Strike: "7"
Insert: "and"
4. Page 3, line 1.
Following: "who"
Strike: ", AND BUREAUCHIEFS"
Insert: "who"
5. Page 3, line 3.
Following: "ef"
Strike: "7"
Insert: "or"
Following: "administrator"
Strike: ", OR"
6. Page 3, line 4.
Following: line 3
Strike: "BUREAU CHIEF"
7. Page 4, line 7 through line 16 on page 5.
Strike: section 2 in its entirety

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

BILL SB 294

Date 3/13/81

SPONSOR HAMMONE

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Bob Carroll	Helena	self		X
Jay Bruch	Helena	LWR of Montana		-
Dary Speth	Sierra	self		X
Vince Matule	Helena	self		X
David Lockman	Helena	MT Public Health Assn		X
AS Hanson	HELENA	MT Tech Council		X
Jim Gossage	Helena	MT Deputy Director	X	
Pres Graham	"	"	X	
Joe Maguire	Sen Dist 16	Sen Dist 16		X
Morris Burnett	Helena	Adm	X	
Larry Womby	Helena	Self		X
Al Hammond	Senate Dist 3			
Carroll Smith	Helena	Dept of Inst	X	
Bill Dunbar	Helena	Self		X
Howard Hufferdinger	Helena	Self		X
Thomas Schander	Helena	MPBA		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION

COMMITTEE

BILL SB 350

Date 3/13/81

SPONSOR STIMATZ

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

BILL SB 389

Date 3/13/81

SPONSOR HIMSL

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION

COMMITTEE

BILL SB 321

Date 3/13/81

SPONSOR HALLIGAN

[illegible]

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