

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 11, 1981

The twenty-fifth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date, in Room 442 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members of the committee were present with the exceptions of Senators Johnson and Kolstad.

CONSIDERATION OF SENATE BILL 270:

AN ACT TO INCREASE THE AMOUNT OF MONEY THAT A
DISCHARGED INMATE MAY RECEIVE; AMENDING
SECTION 53-30-111, MCA.

Senator Patrick Ryan, district 19, sponsor of the bill, who is also a parole officer has experience with parolees who get \$25 now. This bill will increase it to \$100.

PROPOSERS: Dan Russell, Division of Corrections, stated this bill provides for permissive capabilities to allow up to \$100 for ones coming out of the Montana State Prison. Their individual bank accounts will be investigated and not all will be allowed the entire \$100. It can be done by regulation.

OPPOSERS: None.

Questions from the committee: Senator Hafferman asked about the possibility of the parolees spending the money in their account so that they can receive the \$100. The answer was that it could happen, but they would try and control it.

Senator Towe asked where the money comes from. The answer was there is no new money; the department would monitor money throughout the year. Some will get no money, others will get \$100. It can be done by regulation.

Senator Hammond asked if all the inmates earn the one-fourth wages. The answer was no. The maximum wage is a dollar a day.

Senator Hafferman asked what percentage have social security in prison. The answer was 7 out of 762 inmates.

Senator Ryan in closing said that suitable clothing is given, and he pointed out that not all the money is not given at the time the parolee walks out.

CONSIDERATION OF SENATE BILL 271:

AN ACT TO PROVIDE THAT THE DEPARTMENT OF INSTITUTIONS IS NOT REQUIRED THROUGH ITS PAROLE OFFICERS TO SUPERVISE PATIENTS RELEASED FROM WARM SPRINGS STATE HOSPITAL.

Senator Ryan, sponsor of the bill, read the title and said the essence is on Page 3, lines 2,3, and 4.

PROPOSERS: Nick Rotering, staff attorney for the Department of Institutions, stated a conditional release should be supervised. He said the correctional process was not useable for this type of patient. The bill asks that the probation or parole officers do not have the supervision of the persons released from Warm Springs State Hospital.

Senator Story asked if there were qualified persons to take this responsibility. The answer was that there is a committee plan established for the individuals, usually mental health facilities.

Senator Story asked about the possibility that some towns may not have these facilities, and he was told the town judge would not recommend his release if the community lacks the needs for him.

The hearing was closed.

CONSIDERATION OF SENATE BILL 294:

A BILL FOR AN ACT ENTITLED: AN ACT TO AMEND SECTION 2-15-112, MCA, TO REQUIRE DEPUTY DIRECTORS AND DIVISION ADMINISTRATORS TO SERVE AT THE PLEASURE OF DEPARTMENT DIRECTORS AND DEPARTMENT HEADS.

Senator H.W. Hammond, district 3, proposed this bill by saying the purpose of the bill is to get a hold of government and to make it responsive to the elected executive. He mainly read his hearing, which is enclosed.

PROPOSERS: Morris Brusett recognizes that deputies and administrators are officers. This bill gives direction to those who have lost their ability for one reason or another to function adequately in their job. This bill sufficiently protects them. The bill permits a new governor to put together quickly a management team that will be responsible. He suggested amendments for if it passes and approval of the governor.

John La Favor, from the Department of Social and Rehabilitation Services, said this bill does not affect his system, but he supports it because it is one of the most important pieces of legislation to give new administration levers of government. This bill can carry new direction.

Minutes of the State Administration Meeting

David Lackman, lobbyist, enclosed statement.

Janelle Fallan, Montana Chamber of Commerce, said legislation like this is a long time overdue.

A neutral, H.S. Hanson, is concerned about a possible replacement with those who are more politically minded.

OPPONENTS: Merle Rognrud, Helena, concerned that an employee may be discouraged to work. He read a letter that had been addressed to Senator Story from John Weigand.

Questions from the Committee: Senator Towe asked Mr. Brusett about the provision in the human rights law that might prevent anything being accomplished in this bill. He answered that if a deputy cannot perform at a level demanded, he could be removed.

Senator Story said it had been brought up in staff. Political distinction that may change policy direction is not political. Senator Towe said a distinction could be made but a court may fail to see this distinction.

Senator Ryan asked Brusett if he wanted him as a legislator to fire an incompetent person. He replied that the director would dismiss the person, and this bill gives direction to do that. Senator Ryan said the competency and ability of the person is at question; the governor, boss, or whoever, can discharge or dismiss him. This bill seems to give laissez-faire to get rid of him.

Mike Young, attorney for the Department of Administration, said the intent of the drafters of the bill was to put division administrators at the pleasure of the governor. It was not to take away political rights. This bill will help to get around administrative hangups. He wants the committee to consider exempting human rights from this bill. The amendment could include original political activity from retaliation.

Senator Story said there should be no possibility of politicizing, that those jobs could depend on acting in a manner that would be construed as political.

Senator Ryan said an attempt to strengthen the bill is to fire division directors or new state employees. Why cannot they fire if they have cause?

Senator Hafferman asked Bill Opitz, PSC, if deputy directors

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and administrators can be fired. Mr. Opitz indicated they oppose the bill and suggested amendments on Page 3, line 1. Senator Story asked Opitz how many were affected in his organization and his reply was ten.

Senator Towe asked why PSC is any different from the other agencies. Opitz response was that there are five exempt from pay plan. This bill gives leverage to fire.

Senator Story said certain elected officials were given authority and wanted to know if they can be hired and fired now. Answer, no. Opitz said every other elected official has ten and they are not covered by this bill.

Senator Towe asked Hanson if the committee considers the suggested amendment, would he like it any better? He replied that they would like to make sure they have the continuity for a \$100,000.00 budget.

Senator Towe asked if there would be trouble firing people. LaFavor replied that it is not true in his experience, and he stated competence is the best job security.

Mr. Brusett, speaking for the governor's office, requested that if the bill is amended the governor have the opportunity to address that.

In closing, Senator Hafferman feels this bill is not as strong as he had hoped it would be and give a better opportunity to let his philosophy work. In his own experience, he would have not wanted to be hampered. It should be amended to do that if possible.

Senator Towe said they should approach and know what they are doing because the party in power is going to go around to every administrator and every deputy and ask for a contribution. He feels if one is elected, he should be held responsible.

There was more discussion between the Senators regarding the same ideas, and the hearing was closed.

ADJOURNMENT: 11:15.



PETE STORY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2-11

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.		✓	
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson		✓	
Senator Patrick Ryan	✓		
Senator Thomas Towe	✓		

Each day attach to minutes.

MONTANA DEPARTMENT OF LIVESTOCK



THOMAS L. JUDGE, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 449-2043

HELENA, MONTANA 59601

February 13, 1981

MEMORANDUM

TO: Senator Howard Hammond

FROM: Les Graham, Administrator
Brands-Enforcement Division

Judge Dr. Jim Glosser, Administrator & State Veterinarian
Animal Health Division

SUBJ: Senate Bill 294

We would like to go on record as being in favor of Senate Bill 294. Due to a misunderstanding, we were unable to verbally testify at the hearing on February 11, 1981.

We are both Division Administrators and in that capacity feel strongly that SB294 should be passed. It is our position that for government to effect changes dictated by Executive or Legislative directives, those charged with management of the various agencies must have direct control over major policy-making positions. We feel that public jobs are not a property right. State employees in those categories named in SB294 have little to be concerned about if they are productive in their positions and responsive to the needs of the citizens they serve. Therefore, if the segment of Montana's public with which administrative personnel deal is satisfied with their performance, they should have little to worry about.

We would also like it to be known that we feel we serve at the pleasure of our Director at this time and would tender our resignation at the Director's request.

LG-JG:cmw

cc: Governor's Office



Senate Bill 294 (Hammond/Story/Johnson/Hafferman) Amending 2-15-112 to require deputy directors and division administrators to serve at the pleasure of department directors and department heads . State Administration Hearing : Wednesday , Feb. 11
rm 442

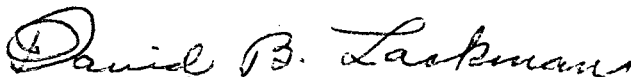
I am David Lackman, lobbyist for the Montana Public Health Association , and formerly Administrator of the Laboratory Division of the Department of Health and Environmental Sciences . I am testifying in support of Senate Bill 294 .

I speak from 47 years experience as a faculty member at the medical school of the University of Pennsylvania , as an army officer, as a scientist director in the U.S. Public Health Service , and as a division administrator for the state of Montana.

During my exposure to courses in military & civil administration , I don't recall having dealt with the problem this bill addresses. However , in practice it is a real one. Fortunately , the goals , methods of operation , and personalities of department heads and generals I worked with were compatible with mine. In many instances , this isn't true. I have seen many examples where directors and those immediately under them effectively neutralized each other ; with resulting cases of stomach ulcers. Among systems , federal civil service is one of the worst offenders. However , with establishment of a federal executive service , there has been improvement.

For a more efficient , more smoothly operating , and more harmonious bureaucracy, I recommend your favourable consideration of SB 294.

(These are not entirely my own conclusions , I have had input from others questioned about the bill . The only adverse comment ~~heard~~ heard is " I hope it isn't abused. ")


David B. Lackman , Ph.D. , Chmn. Legislative
Committee & Lobbyist , Montana Public Health Association

February 10, 1981

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.

Security over productivity

2-11-81
P. O. Box 764
Belgrade, Montana 59714
February 9, 1981

Mr. Pete Story, Chairman
Committee on State Administration
Montana State Senate
Montana Capitol Building
Helena, Montana 59601

Dear Senator Story and Committee Members:

Since Senate Bill 294, if enacted by Montana's 1981 Legislature, will legalize the "Spoils System" into Montana's government, I would like the following concerns written into your Committee's hearing on this bill.

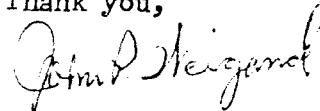
The Spoils System, which permits elected officials to appoint their friends and those unqualified to fill responsible government jobs, peaked in the 1880's in the United States. Under President Grant, "Boss" Tweed and the Tammany Hall Gang successfully bilked taxpayers of New York City and County of about \$100-million, a sizeable sum of money even today.

To prevent the recurrence of such political atrocities (or if you prefer, political favors) at taxpayers expense, the Pendleton Act was passed by Congress in 1883, about 100 years ago and just 6 years before Montana was granted statehood. The Act provided that all aspirants to federal government jobs take and pass a civil service examination, which included questions on the job to be performed. In other words, qualifications were more important than political alliances.

The introduction of a bill such as SB294, which promotes the Spoils System and its historical record of amplified governmental graft and corruption, is a disgrace to Montana's legislative system. It is an affront to the intelligence of every Montana taxpayer. Montana currently has a classified employment system for its governmental employees; although it does not mandate civil service examinations, it does detail the educational and experience requirements for each position. It should be retained so that Montana taxpayers receive an honest return for their tax dollars.

Senate Bill 294 deserves an immediate death -- we do not need Boss Tweed, "Elegant Oakey", or "Slippery Dick" (members of Tammany Hall) to be reincarnated.

Thank you,



John P. Weigand

NAME: Bill Opitz DATE: 2/11/81

ADDRESS: 2 Wood Ct Helena

PHONE: 443-3624

REPRESENTING WHOM? PSC

APPEARING ON WHICH PROPOSAL: SB-294

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: Proposed amendment -- on pg. 3
line 1, after the words "department
head," insert the phrase "except the
public service commission,"

NAME: Merle Rognrad DATE: 2-11-81

ADDRESS: 2205 8th Ave., Helena, MT.

PHONE: 443-2743

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: SB 294

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: SB 294 would make it more
difficult for a State employee to
make a professional career in the
field such employee is trained and
experienced. The employee would be
discouraged to work professionally
to advance to
for top positions in the Department.

I also wish to enter into the
record a letter ^{by John Wiegand} commenting on SB 294.

SENATE S. Admin COMMITTEE

BILL 270

VISITORS' REGISTER

DATE 2/11/81

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPOS

Jan Brown

Mt. Allison Church

270

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY