

MINUTES OF THE MEETING  
LEGISLATIVE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

April 20, 1983

The fourteenth meeting of the Legislative Administration Committee was called to order by Senator Kolstad, Chairman, at 10 a.m. on the above date in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE JOINT RESOLUTION 41: Representative Melvin Williams, House District 70, chief sponsor of the resolution stated that the resolution is an interim study of Montana's Employment Preference Laws concerning veterans, veterans' spouses and dependents, and disabled civilians and requiring a report of the findings and recommendations of the study to the 49th Legislature.

This Resolution takes care of House Bill 378, Senate Bill 197 and Senate Bill 377. (Please see Exhibits 1 and 2.)

The proponents of the bill were as follows:

Bob Durkee, VFW  
Dennis Taylor, Administrative Director Cities and Counties  
Jim Shannon, DAV  
Frederick MacKintosh, DAV  
Bill Wilson, VFW  
Dan Antonietti, USDL  
Stacy Flaherty, Women's Lobbyist Fund

DISPOSITION OF HJR 41: Senator Mazurek moved HJR 41 BE CONCURRED IN. Motion carried. Senator Mazurek will carry the bill.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 43: This resolution was introduced by Representative J. Jensen, calling for an interim study of school teacher tenure laws. Representative Jensen said there is much animosity on both sides regarding tenure. He thinks we should sit down and come to grips with the question.

Nancy Walter, Staff of MEA, said most of the calls she receives have to do with tenure. Teachers amass a good deal of frustration and guilt over the way tenure is viewed by the public and also by some teachers. She said tenure tends to be some kind of cemented-in way to protect worthless teachers so that they can stay on forever. She said this is difficult for teachers to cope with.

Rick Bartos, attorney for the Department of Public Instruction, said they are processing 36 appeals to date in regard to tenure. It would be beneficial to the state and to the Teacher's Union to get the intent of the Legislature in this matter.

Chip Erdman, Montana School Board Association, said this is a highly complex problem and was in favor of the Resolution.

There were no further proponents or no opponents to the Resolution so Senator Kolstad asked for questions from the Committee.

Senator Graham asked if they would agree that the committee not wholly be made up of a bunch of school teachers? He thought some should be on there but hoped to get input from someone besides teachers.

Representative Jensen stated that he hoped that there would be no teachers on the committee.

Senator McCallum asked: "What makes you think an interim committee could solve it any better?"

Representative Jensen stated that they have made up a library search of over 1500 pieces of paper or sources to pursue on new writing of tenure. I don't think a committee meeting during the session could do it.

Senator McCallum stated that there is a low percentage of study bills being accepted by legislature on the whole. If you bring in a bill that the teachers think would be against them, you will have to give that up.

Representative Jensen said they just hope to change what tenure means.

Senator Marbut said if we approach this from a pure point of view, then when the study committee comes out it would be more favorable. Suppose this committee comes out that tenure is an archaic system, would you support such a finding?

Nancy Walter from the MEA said she didn't feel she was authorized to answer that for the Department. However, she would personally support it.

Senator Graham commented we can do only a limited amount of studies because there isn't enough funding.

DISPOSITION HOUSE JOINT RESOLUTION 43: Senator Mazurek moved HJR 43 BE CONCURRED IN. Motion carried. Senator Bob Brown will carry the bill.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 45: Representative Connelly introduced the resolution and said it was study to clarify the role of community colleges in the public education system of the State of Montana.

DISPOSITION HOUSE JOINT RESOLUTION NO. 45: Senator Mazurek moved that HJR 45 BE CONCURRED IN. Motion carried. Senator Regan will carry the bill.

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There being no further business before the committee at this time,  
the meeting adjourned.

  
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ALLEN C. KOLSTAD, Chairman

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## LEGISLATIVE ADMINISTRATION

COMMITTEE

48 th LEGISLATIVE SESSION -- 1983

4/20/83

Date \_\_\_\_\_

[illegible]

SENATE

COMMITTEE

BILL

## VISITORS

# REGISTER

DATE \_\_\_\_\_

4-20-83

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

JP-91

4-20-83  
Exhibit I  
HB-319  
SB-197  
SB-319

REMARKS ON JOINT RESOLUTION  
ON MONTANA'S EMPLOYMENT PREFERENCE LAWS

*During*

~~All of us, at one time or another~~ *we* *much* during the course of this legislative session, have heard discussion of employment preference for veterans. It has been an area of considerable concern for public agencies, for veterans, for disabled people and for women. Three separate bills have been introduced on the topic. Two in the senate and one in the house. (The house bill was tabled in a house committee. One senate bill was similarly tabled) (The remaining bill, SB 197, has had most of its substantive provisions amended out by the senate and was passed over to us. So far, the Labor and Employee Relations Committee has not addressed the bill) *All three were tabled in committee (Hes)*

Basically this means this legislature has failed to address most of the questions raised about employment preference. *see above*

The issue of employment preference is complex and controversial because not only does it apply to veterans, and their spouses and dependents, but it also affects disabled civilians and can have a significant effect on the employment of women.

There is currently considerable disagreement among public agencies, veteran's groups, women's groups and labor organizations as to the correct interpretation of the current preference law. Much of this disagreement stems from a district court case in the 1st Judicial District in Helena last spring. Judge Gordon Bennett interpreted the law in a way considerably different from the way the law has been applied in recent years.

It is difficult to determine what the intent of the legislature was in 1921 when this law was first passed. The language in the law is very vague and gives us little guidance. More importantly, however, is what the legislatures intent would be when dealing with a modern hiring environment. In past sessions, this body has made some significant policy decisions which have effected how public agencies hire people. We have passed laws promoting hiring based on merit and prohibiting discrimination based on race or sex. *Note see attached letter*

This combination of a 1921 law and 1980 hiring policies has created a confusing situation for public agencies. Add to this the recent court case that has interpreted the law differently then its been applied for years and you have a significant problem area. A problem this legislature must address. *If feel*

This session, however, we have been unable to effectively address employment preference. Unable to, primarily because we lack information and understanding about the impact of this legislation on public agencies, veterans, disabled people and women. We don't know the kinds of hiring problems various changes to the law could cause. We don't know the legal implication of conflicts with our human rights laws.

Exhibit 2

4-20-83

I believe we must deal with this preference issue more completely in 1985. To do so we need carefully researched information and alternatives. This resolution provides for an interim committee to study the veterans preference law and report to the 49th legislature. This is the only way this legislature can do an effective job of establishing a clear public policy in this area in 1985.

I ask I do pass ~~on~~ HJR-41

# STANDING COMMITTEE REPORT

April 20

19 83

**PRESIDENT**

MR. ....

**LEGISLATIVE ADMINISTRATION**

We, your committee on .....

**HOUSE JOINT RESOLUTION**

having had under consideration ..... Bill No. 43

**J. Jensen (Brown)**

**HOUSE JOINT RESOLUTION**

Respectfully report as follows: That ..... Bill No. 43

**BE CONCURRED IN**

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# STANDING COMMITTEE REPORT

.....April 20..... 19...83..

MR. ....PRESIDENT.....

We, your committee on .....LEGISLATIVE ADMINISTRATION.....

having had under consideration .....HOUSE JOINT RESOLUTION..... Bill No. ....45.....

Connelly (Regan)

Respectfully report as follows: That.....HOUSE JOINT RESOLUTION..... Bill No. ....45.....

BE CONCURRED IN

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# STANDING COMMITTEE REPORT

April 20 ..... 19 83

MR. President.....

We, your committee on ..... LEGISLATIVE ADMINISTRATION.....

having had under consideration ..... HOUSE JOINT RESOLUTION..... Bill No. 41.....

Williams (Mazurek)

Respectfully report as follows: That..... HOUSE JOINT RESOLUTION..... Bill No. 41.....

BE CONCURRED IN

~~DO NOT~~