

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 14, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. on the above date in Room 317 of the State Capitol.

ROLL CALL: Seventeen members present with Rep. Garcia excused.

CONSIDERATION OF SENATE BILL NO. 171: Sen. Ethel Harding, Senate District #25, said that the bill would enable the director of the department of commerce to appoint legal counsel at the request of a party for contested cases at hearing. It would relieve the board of paying for outside lawyers. The department feels this bill has the potential to save money and to speed up the administrative process.

PROPOSERS: Shirley Miller, Professional and Occupational Licensing Bureau of the Department of Commerce, read her prepared testimony, Exhibit #1, in support of the bill.

OPPOSERS: There were no opposers.

DISCUSSION OF SENATE BILL NO. 171: Rep. Jenkins asked if the party could, after an informal hearing, request the services of an attorney. Ms. Miller said that was correct.

Without further comment, Sen. Harding closed.

CONSIDERATION OF SENATE BILL NO. 276: Sen. Ethel Harding, Senate District #25, sponsor, said that the bill was at the request of the department of commerce. The present law is for the audit reports of political subdivisions to be issued within 60 days. This bill is changing that 60 days to 120 days as it is impossible to get those audits out in time.

PROPOSERS: Don Dooley, Department of Commerce, said the change was recommended by the Legislative Auditor as they recognized that it was unrealistic to get the audits out in 60 days. He said it has become even more unrealistic and said that 120 days is more in keeping with the actual time required.

OPPOSERS: There were no opposers.

There being no questions from the Committee, Sen. Harding closed her presentation.

CONSIDERATION OF SENATE BILL NO. 176: Sen. Allen Kolstad, Senate District #7, sponsor of the bill, said this bill establishes one legal holiday to observe Washington's and Lincoln's birthdays which would be called Presidents' Day. This was introduced at the request of a number of county

commissioners throughout the state. This would cause our law to conform with the federal holidays. There would also be a savings to the counties and said it is inconvenient for people in the rural counties especially, to go to town and have all the county offices closed and other offices open. He also pointed out that the fiscal note didn't take any overtime into account.

PROPOSERS: Gordon Morris, Montana Association of Counties, said this was a resolution adopted at their June convention in Kalispell last year. He supplied a handout showing the breakdown based upon the number of county employees and State employees throughout the state of Montana that would be impacted by combining the holidays. He explained the figures on the handout, attached to Exhibit #1, and explained that overtime considerations would drive that cost up too. This bill would make it conform to the federal holidays. He said that this resolution was supported by the 50 counties that are members of MACO and asked the Committee for a Be Concurred In.

Sandra Whitney, Montana Taxpayers Association, agreed with Mr. Morris' comments. They said that the State holiday schedule should be in conformance with the federal schedule and this would not be making things less than federal workers.

Henry Grossman, County Commissioners from Chouteau County, agreed with the previous testimony and said if this was presented to the taxpayers of the State it would be overwhelmingly supported. He urged the Committee's support of the bill.

Marie McAlear, Commissioner from Madison County, supported the bill.

OPPOSERS: Tom Schneider, Montana Public Employees Association, said they oppose the bill. He submitted prepared testimony Exhibit #3, showing the state holidays current holidays. Since 1921 the State has taken away two holidays and have failed to add any new ones. He said that the State has no right to negotiate additional or less holidays - these are provided for in their contracts. The attorney general has ruled that the holidays in the statutes are the only holidays in the State and are not negotiable. The State does not have the right to impair any contracts. He also said if it is to conform with the federal holidays then it should provide for the addition of Martin Luther King, Jr. Day.

Eileen Robbins, Montana Nurses Association, spoke in opposition to the bill. Her prepared testimony is attached as Exhibit #4.

Joe Rossman, Teamsters Union, opposed the bill, and said that if the bill is passed it will hurt the employees of the cities, counties and State and it will take money away from them and suggested if the bill is passed to amend it to provide for a monetary payback for money lost.

Gene Fenderson, Montana State Building Trades Council, said he was surprised that MACO is supporting this bill as county employees are probably the lowest paid employees in the state. He said it is going far to ask these people to take further cuts.

Mary Lou Garrett, ICCW, Department of Commerce, said they represent 50% of the employees in State government and agreed with the testimony of Mr. Schneider.

Terry Minow, Montana Federation of Teachers, said the Legislature should not reduce employee benefits and that is what the bill does.

John Manzer, Business Agent for the Teamsters' Union out of Great Falls, urged the Committee to give the bill a Do Not Pass.

Nadieane Jensen, AFSCME, Council #9, AFL-CIO, said if it is going to conform with federal law the Committee must amend in Martin Luther King Day.

Michael Keating, Local \$400, Operating Engineers, asked the Committee for a Do Not Pass.

DISCUSSION OF SENATE BILL NO. 176: Rep. Fritz asked Sen. Kolstad how "Presidents' Day" would be interpreted years from now. He said it would lose its connection with Washington and Lincoln's birthdays and perhaps other presidents could be added that we do not wish to commemorate. Sen. Kolstad said that he didn't think that was a possibility at all. He said if other presidents were to be added that could be done but if no one wanted to commemorate a certain man they would not be included and who would be determined would probably be determined at the federal level. Rep. Fritz also asked several questions of Mr. Morris.

Rep. O'Connell didn't agree with 150 county commissioners, representing approximately 50,000 workers in the state, sponsoring this legislation.

In reference to Mr. Schneider's testimony, page 1, paragraph 5, concerning the expiration of some contracts expiring before the effective date of this bill, Rep. Phillips asked Sen. Kolstad if he would have any objection to making the effective date after the next February holidays. Sen. Kolstad replied that he would have no problem with that if it is more workable in that manner.

Rep. Peterson stated that we have lost sight of the patriotic reasons for celebrating these two birthdays. Sen. Kolstad said that is basically true and it has been diminishing to a degree.

Mr. Morris said the rationale for not including municipal employees is because they are not mandated to follow this - they can take care of this by ordinance.

Chairman Sales asked if this would affect existing contracts to which Mr. Schneider replied it would not.

There being no further questions, Sen. Kolstad closed. In reference to Rep. O'Connell's statement that 150 county commissioners are speaking for 50,000 employees, he said those commissioners are representing approximately 800,000 people throughout the state and their duty is to represent these people in the best manner they see fit. There were 52 counties represented at their meeting when they proposed this bill. He said he had talked to many persons in local government who are in favor of this bill. These are difficult times for everyone in Montana, everyone is taking cuts and he said it would conform to federal law.

CONSIDERATION OF SENATE BILL NO. 159: Sen. Dave Fuller, Senate District #22, sponsor, said this bill would increase the amount a retiree may earn under the PERS before receiving a reduction in his allowance and changing the rate at which a retiree's allowance will be reduced after earning that amount. He also proposed an amendment to the bill, page 5, line 18 and 19. (See Committee Report attached) He said this is a win/win bill. The employer and employee both win and it doesn't cost anything. It only increases what the retiree can earn from \$3500 to \$5000. He said this would fill the need for part time employees in State agencies, particularly the department of revenue - these experienced retirees could fill in instead of an inexperienced FTE.

PROPOSERS: Larry Natschein, Administrator of the Public Employees' Retirement Board, said it would create a pool of expertise for the agencies to call upon if needed and they would not have to put FTE's in the position.

OPPOSERS: There were no opponents to the bill.

There being no questions from the Committee, Sen. Fuller closed his presentation.

CONSIDERATION OF SENATE BILL NO. 196: Sen. Dave Fuller, Senate District #22, sponsor of the bill, said this would amend the present law to be what was intended in the first place and would make it a workable situation.

PROPOSERS: Mike Bullock, Montana Association of Rehabilitation Facilities, which consists of sheltered workshops throughout the state for over 1900 handicapped adults. This bill does not change the intent of the law but establishes a more workable relationship. (See Exhibit #5)

Bill Roberts, Vice President in charge of manufacturing at Helena Industries urged support of SB 196 and submitted his written testimony, Exhibit #6.

Laurie Ekanger, Department of Administration, strongly supported the bill. The department can't set the fair market prices. This bill was patterned after the federal law but their purchasing practices differ from the State and she said it was unworkable as it is.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 196: Rep. Holliday asked Mr. Roberts what kind of products are they talking about. Mr. Roberts said mostly stakes, lathes, etc. She also asked Mr. Roberts if there would be any conflict with the federal law and he remarked that there would not be. They have, in the past, manufactured backpacks for the federal forest service employees.

Rep. Jenkins asked Ms. Ekanger if they purchased products from the sheltered workshops. She said that through the purchasing division they can go through the bidding process. Some departments go directly to them without bidding. Her office only handles the bidding process.

There being no further questions, Sen. Fuller closed his presentation.

CONSIDERATION OF SENATE BILL NO. 195: Again, Sen. Dave Fuller, sponsor of SB 195, explained that this bill would establish a system for public employees to retire after 25 years of service rather than 30. This would extend to all members of PERS as they did for the teachers two years ago. This came from the Public Employees' Association and could result in vacancy savings. He said this would be a good way to open up new jobs, get new blood into the system and for retirees to get out and explore new jobs before permanent retirement. He did tell the Committee that no one really knows the fiscal impact but did feel that in the long run it would wash out. He explained that a Grade 22 retiring after 25 years rather than 30, being replaced with a Grade 12, the savings in the reduced salary would basically be an offset.

PROPOSERS: Tom Schneider, Montana Public Employees Association, said this was the number one priority of their association for this Legislature. This has been studied for four years. He said it does not establish retirement after 25 years of service, it just removes the 30% penalty. These are the only people of the State retirement systems who cannot retire after 25 years of service without a penalty and the teachers' system was changed to take the penalty out. This bill would make the system identical to the teachers' retirement system.

It is actuarially sound. He said that all 702 persons eligible to retire are not going to automatically retire when this bill takes effect. If only half of them retired it would be within 10% of a wash on the cost.

Terry Minow, Montana Federation of Teachers, supported SB 195 and said that the bill is fair as the contribution is split between the employee and employer.

Mary Lou Garrett, ICCW of the Department of Commerce, was in support of the bill as it removes the penalty for early retirement and would create vacancy savings.

Eric Feaver, Montana Education Association which represents approximately 7,000 teachers in the state, said it is the right and proper way to do business and said that the teachers enjoyed this change last session.

Dave Milot, Florence, Montana, speaking for several hundred PERS members of the University of Montana and the Department of Highways, said he supported the bill as a way of taking care of so-called "reorganization" where people were retired after 24 1/2 years of service. He asked that the Committee give the bill a Do Pass.

Nadiean Jensen, Executive Director of Council #9, AFSCME, supported the bill saying that the older employee retires at a higher wage and the new employee comes in at a lower wage resulting in a savings.

Michael Keating, Operating Engineers, Business Manager, urged support of SB 195.

Joe Rossman, Teamsters' Union, said this would create jobs and this is one thing our state needs is more jobs and this would be a start to get those jobs.

Eileen Robbins, Montana Nurses' Association, wished to be on record as supporting the bill.

Rep. Mary Lou Peterson wished to be on record as supporting the bill and said when she retired from her teaching position the school district was able to hire three teachers to replace herself and one other retiring teacher.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 195: Rep. Jenkins asked Mr. Feaver if there was an influx of retirements when the teachers' system changed from 30 to 25 years service. Mr. Feaver said he didn't know the reason for the retirements - there would have to be a survey to find out the reasons. He said it was one way of reducing the teaching force in Great Falls where there was a problem and if there had not been the 25 year

incentive there would not have been a workable solution to their reduction problem.

Rep. Harbin questioned Mr. Schneider about the employee paying .50 and the employer paying .55% and asked why the difference. Mr. Schneider explained his rationale for the difference to the Committee.

Rep. Smith agreed that this might work now but asked about 20 years down the road. Mr. Schneider said that things are always going to change down the road. The funding in the bill provides a fund over a 40 year period. The question will be whether the employer will offset the .55. The system will be solid and over the 20 years adjustments could be made.

Rep. Jenkins brought up the possibility that two persons could be retiring but only one would be paying into the fund. Mr. Schneider said that was a possibility but that is taken care of actuarially when the rates are set. They would be collecting more in the first years but over time it would equal out.

Rep. Phillips said that the Committee members did not have the original fiscal note, only the amendment to the note. Chairman Sales asked for the original fiscal note to be supplied to the members.

Larry Natschein said that the bill is funded. The Board has no position on the bill. They were involved in the drafting of the bill and the fiscal note in the perspective of the retirement system. They will collect much more money early on than will be paid out.

Rep. Jenkins said that the Great Falls school system used retirement to cut down their staff. What happens if this is used to cut down departments where there won't be a replacement. Mr. Feaver said the Great Falls teachers had other incentives besides this.

Rep. Holliday said that Mr. Feaver was the only person who mentioned reduction in force. Mr. Schneider said they brought it up on the fringe - it resulted in their people transferring to jobs in other places because they couldn't afford to retire. Rep. Holliday then remarked that if the vacancies aren't filled then there is a total savings.

Rep. Phillips asked Sen. Fuller if he had talked to any people from the local governments and remarked that there was no one at the hearing from that sector. Sen. Fuller said he was chairman of the Senate Local Government Committee and no one had expressed opposition. They thought it would work. Rep. O'Connell said she had talked to county officials from her area the night before the hearing and no one opposed the bill.

Chairman Sales asked why the employer contribution is greater than the employee. Sen. Fuller said that every retirement system they are aware of the employer pays more than the employee. Mr. Natschein said the employer contribution in the PERS is the lowest contribution in the State and that State law prohibits present employees from paying contributions for benefits they will not receive.

In closing, Sen. Fuller said that it is not mandatory, it is strictly optional. He also told the Committee members that nobody can say what it is going to cost. It may provide an opportunity for an agency to get a retired employee.

Chairman Sales thanked Sen. Fuller and Mr. Schneider for keeping the testimony short and limiting the number of people who wished to testify.

The Committee then went into executive session on the preceding bills.

DISPOSITION OF SENATE BILL NO. 171: Rep. Peterson moved that SB 171 BE CONCURRED IN, seconded by Rep. Moore. The motion CARRIED UNANIMOUSLY. Rep. Holliday will carry the bill.

DISPOSITION OF SENATE BILL NO. 276: Rep. Jenkins moved that SB 276 BE CONCURRED IN, seconded by Rep. Moore. The motion CARRIED UNANIMOUSLY. Rep. Holliday will carry this bill also.

DISPOSITION OF SENATE BILL NO. 176: Rep. Fritz moved that SB 176 BE NOT CONCURRED IN, seconded by Rep. Moore.

Rep. Fritz stated that not one of the people that testified referred to the reason for the holidays in the first place and this reduces the commemoration of the holidays.

Rep. Jenkins made the SUBSTITUTE MOTION DO PASS, seconded by Chairman Sales, however, he did agree with Rep. Fritz that they have lost the reasoning for the holidays. Rep. Harbin said that from a purely technical standpoint the fiscal note says that the savings may not be realized, so why do it? Rep. Cody said she felt it was a "terrible" bill.

Rep. Peterson said they are not arguing Washington's or Lincoln's birthdays but whether this should be in negotiations for paid holidays. She said she would be willing to give the Friday after Thanksgiving rather than Washington's or Lincoln's birthday.

Chairman Sales remarked that less than one-half of the employees affected by this bill are under contract. Rep. Smith said if public offices are going to be closed they should be the same as the federal offices.

The Substitute motion FAILED 11-7 and the order was reversed on BE NOT CONCURRED IN. (See Committee Report and Roll Call Vote attached.)

DISPOSITION OF SENATE BILL NO. 159: Larry Natschein said the bill only changes the amount they can earn from \$3500 to \$5000. If they earn more than \$5,000 they will repay the system \$1 for every \$3.00 earned over the \$5,000. They thought \$5,000 was a more realistic figure.

Rep. Jenkins moved that SB 159 BE CONCURRED IN, seconded by Rep. Campbell.

Rep. Hayne then moved ADOPTION OF THE AMENDMENT, second received. The motion CARRIED UNANIMOUSLY.

The original motion BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. Rep. Jan Brown will carry the bill.

DISPOSITION OF SENATE BILL NO. 196: Rep. Cody moved that SB 196 BE CONCURRED IN, seconded by Rep. O'Connell. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 195: Rep. O'Connell moved that SB 195 BE CONCURRED IN, seconded by Rep. Pistoria. The motion CARRIED with Reps. Sales and Jenkins voting "no". Rep. Joan Miles will carry the bill.

There being no further business, the Committee adjourned at 11:03 a.m.



WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/11/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	/		
V-Chairman Helen O'Connell	/		
Campbell, Bud	/		
Compton, Duane	/		
Cody, Dorothy	/		
Fritz, Harry	/		
Garcia, Rodney			
Hayne, Harriet	/		
Harbin, Raymond	/		
HolliDay, Gay	/		
Jenkins, Loren	/		
Kennerly, Roland	/		
Moore, Janet	✓		
Nelson, Richard	/		
Peterson, Mary Lou	/		
Phillips, John	✓		
Pistoria, Paul	/		
Smith, Clyde	✓		

Please attach to minutes.

Rep. Tuesday

Ans - Pa. Connected to

58. 176 Yes

176 176

175 Yes

176 Yes

—
3-14-85

SB 171

176 yes

195 - yes

159 - yes

196 yes

276 - yes

Rod Garcia
—

STANDING COMMITTEE REPORT

March 14

19 85

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 176

Third reading copy (Blue)
color

CREATE ONE LEGAL HOLIDAY TO OBSERVE LINCOLN'S AND WASHINGTON'S BIRTHDAYS

Respectfully report as follows: That Senate Bill No. 176

BE NOT CONCURRED IN

~~DO PASS~~

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE STATE ADMINISTRATION

DATE _____ S Bill No. 176 Time 4:20

NAME	YES	NO
Sales, Walter	/	
O'Connell, Helen		/
Campbell, Bud		/
Compton, Duane	/	
Cody, Dorothy		/
Fritz, Harry		/
Garcia, Rodney	/	
Hayne, Harriet	/	
Harbin, Raymond		/
Holliday, Gay		/
Jenkins, Loren	/	
Kennerly, Roland		/
Moore, Janet		/
Nelson, Richard		/
Peterson, Mary Lou	/	
Phillips, John		/
Pistoria, Paul		/
Smith, Clyde	/	

Louise L. Sullivan
Secretary

Walter Sales
Chairman

Motion: Substitute Do Pass - Motion Failed 11-7
Reverse the vote for Do Not Pass

(Include enough information on motion -- put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14

19 35

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 195

Third reading copy (Blue)
color

**PERMITTING PERS MEMBER TO RETIRE AFTER 25 YEARS SERVICE YRS.
WITHOUT PENALTY**

Respectfully report as follows: That Senate Bill No. 195

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 14 19 85

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 196

Third reading copy (Blue)
color

**REVISE LAWS RELATING TO STATE PURCHASES FROM SHELTERED
WORKSHOPS**

Respectfully report as follows: That Senate Bill No. 196

BE CONCURRED IN

ENCLASSE

STANDING COMMITTEE REPORT

March 14

85

..... 19

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate

Bill No. 276

Third reading copy (Blue)
color

**ELIMINATE 60 DAY DEADLINE FOR ISSUING AUDIT REPORTS OF
LOCAL GOVERNMENTS**

Respectfully report as follows: That Senate

Bill No. 276

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 14 19 85

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 171

Third reading copy (Blue)
color

**REQUIRE REQUEST BY PARTY FOR HEARING EXAMINER APPOINTMENT;
P&O BD. HEARINGS**

Respectfully report as follows: That Senate Bill No. 171

BE CONCURRED IN

~~DO PASS~~

S. Testimony
Sponsors *Eikel M. Madsen*

~~SB 171~~
~~2-13-85~~

SB 171

THE PURPOSES OF SB 171 ARE TO RELIEVE BOARDS OF THE NECESSITY OF PAYING FOR AN OUTSIDE LAWYER TO PRESIDE OVER A RULE-MAKING CASE AND TO GIVE PARTIES LITIGATING CONTESTED CASES UNDER BOARD JURISDICTION A CHOICE WHETHER TO HAVE THE HEARING OFFICER OR THE BOARD PRESIDE OVER THE HEARING. SOME LITIGANTS DON'T WANT THE ADDED EXPENSE AND DELAY OF TWO ROUNDS OF ADMINISTRATIVE HEARINGS AND FEEL THEY WOULD HAVE A BETTER CHANCE OF GETTING THE RESULTS THEY WANT BY PRESENTING THEIR CASES DIRECT TO THE BOARDS. THEY HAVE THE CHOICE UNDER THIS BILL. THE BOARDS WOULD BE BOUND BY THAT CHOICE. UNDER THE PRESENT STATUTE THERE IS NO CHOICE.

UNDER THE BILL LITIGANTS WOULD STILL HAVE MORE RIGHTS THAN DO LITIGANTS WITH OTHER DEPARTMENTS.

Important
Bill

THE BUREAU FEELS THIS BILL HAS POTENTIAL TO SAVE MONEY FOR BOTH THE BOARD AND THE LITIGANT IN MANY CASES AND SPEED UP THE ADMINISTRATIVE PROCESS.

SB 171

SB 171 IS INTENDED AS A COST SAVING MEASURE FOR BOARDS ASSIGNED TO THE BUREAU. IT ALSO HOLDS PROMISE FOR COST AND TIME SAVING FOR LITIGANTS.

UNDER SECTION 37-1-121, MCA, IN ITS PRESENT FORM, LAWYERS MUST BE APPOINTED TO CONDUCT HEARINGS WHENEVER ANY BOARD HOLDS A HEARING. TWO PROBLEMS RESULT. WHY IS IT NECESSARY TO HAVE A PRESIDING OFFICER IN A RULE-MAKING PROCEEDING? WHAT IF A LICENSEE OR APPLICANT IN A CONTESTED CASE ONLY WANTS TO EYEBALL A BOARD AND DOES NOT WANT FULL FORMAL TREATMENT? THIS DOES HAPPEN.

RULE-MAKING DOES NOT INVOLVE THE RULES OF EVIDENCE, FORMAL PLEADING, DISCOVERY, OR CROSS -EXAMINATION. IT HAS BEEN ESTABLISHED THAT ONE DOESN'T NEED MUCH FORMAL TRAINING OR EXPERIENCE TO PRESIDE OVER A RULE-MAKING PROCEEDING. THE BUREAU HAS FORMS AND CHECK LISTS IN PLACE. THEY ARE IN PLAIN ENGLISH. A LAYMAN CAN EASILY CONDUCT A RULE-MAKING HEARING. HOWEVER, UNDER THE PRESENT STATUTE, EVEN WHEN A BOARD MEMBER IS A LAWYER, A SEPARATE PRESIDING OFFICER MUST BE APPOINTED AT AN ADDED COST TO THE BOARD. THIS SHOULD NOT BE NECESSARY. A SOLUTION WOULD BE TO LIMIT THE REQUIREMENT OF A HEARING OFFICER TO CONTESTED CASES. THAT ACCOUNTS FOR THE INSERTION OF "CONTESTED CASE" ON LINE 18 OF PAGE 1 OF THE BILL.

THE OTHER ASPECT OF THE BILL, WHICH IS AT LINE 16 ON PAGE 1, ADDRESSES THE PROBLEM OF FORCING A MORE FORMAL HEARING ON A LICENSE APPLICANT THAN HE OR SHE WANTS. THERE HAVE BEEN SEVERAL CASES WHICH HAVE TAKEN YEARS TO LITIGATE, ARE IN COURT NOW AND ARE COSTING APPLICANT'S THOUSANDS OF DOLLARS THEY DIDNOT ANTICIPATE. ALL PARTIES AGREE, THAT IN SOME CASES, THERE HAS BEEN TOO MUCH DUE PROCESS AND THERE HAS GOT TO BE A BETTER WAY.

THE ADMINISTRATIVE PROCEDURE ACT DOES NOT REQUIRE OR MANDATE A HEARING OFFICER FOR ANY OTHER BOARDS. IT MAKES THEM OPTIONAL. WHAT IS BEING SUGGESTED HERE DOES NOT TAKE AWAY A RIGHT. IT MAKES THE RIGHT OPTIONAL, AS WITH OTHER DEPARTMENTS. IT GIVES THE APPLICANT A CHOICE. THIS IS STILL MORE PROTECTION THAN IS REQUIRED BY THE ADMINISTRATIVE PROCEDURE ACT.

UNDER THE PRESENT PRACTICE, APPLICANTS ARE ADVISED BY BOTH PHONE AND LETTER THAT, IF THEY WANT A HEARING, THEY MUST REQUEST ONE. THEY DO SO BY LETTER. SOME LETTERS HAVE COME IN ON NOTE-BOOK PAPER AND BUTCHER PAPER. THAT IS SUFFICIENT. ALL THE AMENDMENT WOULD ADD IS: IF THEY WANT A HEARING EXAMINER, THEY SHOULD SO STATE. IT JUST REPRESENTS A SECOND DECISION TO BE MADE BY THE APPLICANT. THERE IS NO BIG BURDEN

TO MAKING SUCH A REQUEST. AN ADDITIONAL PHRASE IN THE LETTER IS SUFFICIENT.

THIS IS LIKE THE RIGHT TO A JURY TRIAL IN COURT. EVERYONE IS ENTITLED TO ONE. BUT IF YOU WANT ONE, YOU HAVE TO REQUEST IT. REQUEST IS MADE BY ONE SENTENCE ADDED TO A FORMAL PLEADING.

WHAT THIS PART OF THE BILL WOULD DO IS SPEED UP THE PROCESS BY NOT FORCING A FORMAL CASE ON THOSE THAT DON'T WANT ONE. COST SAVINGS TO EVERYONE WOULD NATURALLY FOLLOW.

WE ASK THE COMMITTEE'S CONCURRENCE.

MONTANA ASSOCIATION OF COUNTIES

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

SENATE BILL 176

PRESIDENTS DAY

HOUSE STATE ADMINISTRATION

March 14, 1985

If employees normally are not expected to work on a holiday the costs can be calculated in lost productivity based on the number of employees times the wage rate times the number of hours.

The level of service and productivity is reduced but the annual dollar cost has not been decreased.

However if employees are normally expected to work on a holiday, i.e. firemen, sheriffs, deputies, other emergency staff, etc, the cost of one holiday per employee amounts to an increase of approximately one fifth of the average weekly salary.

# of State Employees	10,585	(1-16-85)
Approx # of Co. Employees	<u>6,000</u>	
	16,585	

o Costs using average wage of:

\$6.00	\$7.00	\$8.00	\$9.46*
\$796,080	\$928,760	\$1,061,440	\$1,255,152

* State Average

o Factor for "overtime" associated with necessary services

- Assume 1 out of 10 employees required to work a holiday

- Additional cost estimated at:

\$6.00	\$7.00	\$8.00	\$9.46
\$875,664	\$1,021,608	\$1,167,552	\$1,380,629

MONTANA

Helena, Montana 59604

1426 Cedar Street • P.O. Box 5600

Telephone (406) 442-4600
Toll Free 1-800-221-3468

PUBLIC

EMPLOYEES

ASSOCIATION

The members of the Montana Public Employees Association oppose Senate Bill 176.

We have heard the arguments in the Senate about how additional new holidays will be recognized from time to time. Let's examine the record as to when the current holidays were granted by the legislature:

<u>Holiday</u>	<u>Date Enacted</u>
(a) Each Sunday	1895
(b) New Year's Day, January 1	1895
(c) Lincoln's Birthday, Feb 12	1909
(d) Washington's Birthday, 3rd Monday in Feb	1895
(e) Memorial Day, last Monday in May	1895
(f) Independence Day, July 4	1895
(g) Labor Day, 1st Monday in September	1895
(h) Columbus Day, 2nd Monday in October	1909
(i) Veteran's Day, November 11	1921
(j) Thanksgiving Day, 4th Thursday in Nov	1895
(k) Christmas Day, December 25	1895
(l) State general election day	1895

As you can see the legislature has not granted a holiday for many years. In fact, they have taken away primary election day and the right of the governor to declare a holiday.

MPEA currently has 51 contracts covering state and local government employees. Each of these contracts provide for the above listed holidays. The contracts do not provide for any additional holidays, nor do they provide for any less. The reason is because the Attorney General has ruled that holidays are not negotiable and no one, not even the Governor can declare a holiday.

This leaves us with the unfair situation of having no right to negotiate additional holidays or maybe negotiate something in lieu of a holiday but with the passage of a bill we can lose one. The courts have ruled that the legislature cannot impair a contract so those contracts which do not expire this year will continue to provide Lincoln's Birthday for at least one more year. In our case, that means that state employees won't get it, but most of our local government members will.

If you want to be the same as the federal government, then you should amend in Martin Luther King, Jr. Day, to begin in 1986 as that is when the federal government will begin honoring the holiday. If you want to amend some other day for Lincoln's Birthday, our members, in a survey completed during the break, voted for the day after Thanksgiving.

Eastern Region
P.O. Box 20404
Billings, MT 59104
(406) 256-5915

Western Region
P.O. Box 4874
Missoula, MT 59806
(406) 251-2304



In closing, I can only ask that you consider very carefully, whether we want to be tied to the federal holidays. If your decision is "yes" then we ask that you amend this bill to conform completely in January of 1986. If you don't feel we should conform with the federal holidays, then MPEA respectfully asks that you vote "No" on SB 176.

Thank you very much.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

TESTIMONY SB 176

The Montana Nurses' Association opposes SB 176.

The MNA has a long collective bargaining history with the State of Montana. Both Lincoln and Washington's Birthday are holidays which were negotiated in good faith with the State. It is not in the best interest of any state employee to reduce previously negotiated benefits.

At a time when state employees are being asked to support a pay increase that is not expected to keep up with the cost of living in Montana, a proposed reduction of even one holiday is a proposal that exploits all public employees.

At our last bargaining session with the State on March 4th, 1985, after much discussion regarding the worth of registered nurses and the work they perform in relation to the pay they receive, the MNA bargaining units agreed to support the Governor's pay bill, knowing that the inequities that currently exist for workers at the state institutions (i.e., no shift differentials, or 1½ pay for hours over 8 or 80) will continue for at least an additional two years. The tentative agreement with the State was contingent upon state employees suffering no decrease in benefits. We specifically stated that passage of SB 176 would negate our agreement to support the administration pay bill,

Please give this bill a DO NOT PASS recommendation.

Respectfully submitted, Eileen C. Robbins, March 14, 1985

EX-5
SB-196
3/17/85

Mr. Chairman, for the record my name is Mike Bullock and I am here representing the Montana Association of Rehabilitation Facilities to speak in favor of Senate Bill 196.

The Montana Association of Rehabilitation Facilities membership consists of sheltered workshops throughout the State which provide employment and vocational services to over 1,900 handicapped adults.

It is our feeling that the law as passed in 1977 was unworkable because it required the Department of Administration to establish an administrative structure just to purchase products and services from sheltered workshops.

S.B. 196 does not change the intent of the law but rather allows sheltered workshops to establish a more workable relationship with the Purchasing Division of the Department of Administration, through the deletion of those provisions that have been proven to be unworkable.

Your favorable consideration of this bill would be greatly appreciated.

* * *

SB-196
3/14/85

Mr. Chairman, my name is Bill Roberts. I am Vice President in charge of manufacturing at Helena Industries, Inc. -- a non-profit Montana corporation serving the vocational needs of approximately 250 severely handicapped individuals annually. This is accomplished through a comprehensive manufacturing and service base.

In 1977 when the original "State Use" legislation was enacted the Department of Administration was called upon to handle a significant number of duties that have since been found to be very difficult and unworkable.

As a member of the Montana Association of Rehabilitation Facilities' Committee to establish a central, non-profit association to implement the original legislation, I can tell you that obtaining and appropriately utilizing the information required for determining the fair market price for even a single item was an undertaking requiring large amounts of information, much of which was unavailable. To determine and re-evaluate semi-annually many fair market prices would require a number of full-time employees.

Federal legislation, after which our present state law was patterned, established a "Committee for the Purchase from the Blind and Other Severely Handicapped" to determine facility certification, fair market prices, and small business impact. This Committee has a full-time staff of 12 which is becoming increasingly burdened by additions to its work load from new products and services provided to the Federal Government by rehabilitation facilities.

That committee is currently handling fair market price information for only 175 sheltered workshops who provide about 250 products and services to the Federal Government. Although it's true that the average product is provided in much larger quantities to the Federal Government than would be provided under this law to State government, the amount of time required to process a single product is the same -- regardless of quantity. That would necessarily require far more work for the Department of Administration than the original law intended.

S.B. 196 would simplify the present law by deleting unworkable provisions while leaving intact the intent.

We would appreciate favorable consideration of S.R 196.

SENATE BILL 159 - Sen. Fuller/Rep. Brown

This bill introduced at the request of the Public Employees' Retirement Board, improves the situation of certain retired PERS members, their employers, and the taxpayers of the state of Montana.

It simply raises the amount of earnings a retired member may earn in a calendar year from \$3500 to \$5000 and reduces the offset from \$1 dollar for each \$2 dollars earned over the limit to \$1 dollar for each \$3 dollars earned, over the limit.

This change improves the economic positions of those retirees wishing or required to return to public employment and permits public employers to make use of special expertise for longer periods of time. With the effects of inflation, the old limit did not permit public agencies to rehire specialized people for the full 60 days authorized by law because these specialists would earn more than \$3500 in three months and would be forced to terminate their employment or have their retirement benefits reduced.

The use of these specialists on a when-needed basis provides expertise in serving the taxpayer that in some instances would not have been available had the hiring agency been required to hire an additional full time employee.

There is no cost to the bill and in the long term there may be some small savings to public employers and hence, the taxpayers of Montana.

Larry Nachbaur
3/14/85

PUBLIC

EMPLOYEES

ASSOCIATION

SENATE BILL 195, presented by Thomas E. Schneider, Executive Director

Senate Bill 195 is the number one priority of the 7,000 members of the Montana Public Employees Association. The bill does not establish retirement with 25 years of service, but simply removes the 30% penalty for doing so. PERS members are currently the only members of a state retirement system who cannot retire with 25 years of service without penalty.

During the past five years, public employees have been subjected to the same bad times as other employees. Many employees have been forced to look at retirement at an earlier time in their lives than they had intended either because of employee cutbacks or because of re-organizations which have resulted in forced moves. Currently many employees are commuting to work in cities other than the ones they live in just to be able to qualify for enough retirement benefits to be able to live on in their later years. They cannot understand why other public employees can retire without penalty when they cannot.

With the current desire to create more jobs in the state, this bill could do that according to the actuarial valuation of the PERS. There are approximately 702 employees who could immediately take advantage of this provision and thus open up those jobs to new workers. In addition, using this same valuation as a guide, these vacancies may offset much of the additional cost to the public employers. Remember, the employees are paying half of the cost themselves.

POSSIBLE SAVINGS

(Based on pages 10 and 13 of the current PERS Valuation)

Number of employees who could qualify immediately: 702

130 x	\$21,897	=	\$ 2,846,610
169 x	20,938	=	3,538,522
14 x	25,765	=	360,710
134 x	26,011	=	3,485,474
131 x	25,747	=	3,372,857
124 x	22,605	=	<u>2,803,020</u>

$\$16,407,193 / 702 = \$23,372.07$ average salary

ASSUMPTION

If half of those who are eligible to retire, or approximately 351, then using the amended fiscal note to find the possible average above it appears to be between grade 12 and 13. With step 2 being the new employee rate, it appears that a savings calculation could be made by:

Average Salary of eligible employee: \$23,372.07 - \$18,275=\$5,097.07

Multiply 351 x \$5,097.07 = \$ 1,789,071.50

The Director of the Department of Administration told the Senate Committee that their survey showed that in local government they would save a high of \$6,000 in Missoula and a low of \$3500 in Great Falls. Even using the low figure, it would calculate out at:

351 x \$3500 = \$ 1,228,500

As you can see, it would not take all of the eligible retiring for this bill to be close to self funding. It is not our contention that it is completely costless, but rather that it results in a benefit to both the employer and the employee. It certainly is attractive to the State of Montana with the possibility of creating 700 new job openings. Please remember that the "vacancy savings" created by this bill is not already taken out of the budgets as these positions would be over and above the expected turnover rate.

THANK YOU FOR YOUR CAREFUL CONSIDERATION OF SENATE BILL 195.

March 8, 1985

State Administration Committee
State Capitol Station
Helena MT 59620

The following individuals, who are all public employees in Great Falls/
Cascade County and may eventually be affected by the provisions of Senate
Bill 195, strongly urge you to support Senate Bill 195 which reduces the
number of years that a member of the Public Employee's Retirement System
must serve from 30 to 25 years before becoming eligible for service
retirement benefits regardless of age.

Signature

Debrie Brickman
Virginia Seeringer
Carol L. Festoff
Charolke Barmar
Kelly Cassaria
Virginia Thacker
Cara Pieschner
Maxcheta Linder
Mary C. Kjelstrom
Don M. Hesa
Suzanne R. Martin
Harlene Krock
Ramona Jewett
Loretta E. Valance
Henry Krumm
Kevin H. G.
John Gladue
Susan A. Orr

Signature

William C. Walters
Benjamin M. Long
Jack J. Allen
David J. Jones
Bernad E. McGuffey
David W. Ellis
Josephine Bernovich
Rachel Clavin
Bob L. L. E.
Nance Morrison
Tommy Morgan
Debi Reynolds
Donna M. Heim
Kathryn E. Wright
David W. J.
Henry E. Schuman
Cheryl Brundage
Stel E. Pearson
Patricia McLaughlin

Signature

Glen R. Flackings
John M. Moore
Gloria Foust
Judy D. Hardinger
Marian Clark
Cheryl L. Lube
John R. Elmer
Jeffrey L. Jenkins
Brady E. Lewis
Lang W. Hoogstad
William J. Westin
Jeanne M. League
Sara L. Papp
Michael Kallman
John R. Painter
John W. Wilson
Sharon Holzmeier
Pat Taylor
Rose L. Lewis

VISITORS' REGISTER

COMMITTEE

BILL NO. SB 176DATE 3-14-85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HENRY GROSSMAN	Chouteau Co. COMM	SB 176	
Bruce K. Grossman	Shelkin, Mont.	"	
Walt Westgard	msla, mt.		
Tom Schauder	MPEA		✓
Dave Milot	Florence Mt		X
Nadison Jensen	AFSCME		✓
Eugene Fung	Int Bldg Trades		L
Mary Lou Garrett	ICUW / st Employee Comm		✓
Jordan Whitney	Helena - Mont st Mont	✓	
Edna Collins	Helena-Mont. Labor Assn		✓
Gordon Morris	MACO	✓	
Marie McAlen	Madison Co.	✓	
John A. Hanz	Teamster # 45		✓
John Hanz	" "		✓
Charles E. Hanz	Teamster Highway ^{Dist}		✓
Mike Keating	# 400		✓
Allen Kelsch	176	✓	
Lyle Westgard	msla, mt.		✓
Samy Minow	MFT		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM. ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. 5B171

DATE 3-14-85

SEN. SPONSOR Ethel HARDING

[illegible]

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. SB 195DATE 3/14/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John I. Dahl	Helena, MT	X	
Davis E. Milot	Florence, MT	X	
Tom Schneider	M P E H	X	
Nadlean Jensen	A F S C M E	X	
Eugene Fendler	MT Bldg Trade	X	
Ray Pearson	Trunk Lines	X	
John A. Gflam	"	X	
Charles Hain	Highway Dept.	X	
Mike Keating	# 400	X	
TOM GLEASON	1145 VALLEJO DR.	X	
Joe ARMSTRONG	454 W LAWRENCE - Helena	X	
Leonard C. Mahlum	Helena	X	
Danny Munow	MFT	X	
James R. Hume	Helena	X	
Harold Brosten	Helena	X	
Dean M. Eggenmeyer	Helena Dist. of Forestry	X	
Mary Lou Garrett	ICCW	X	
John Maditschein	PERD No Position		
Eileen Robbin Mont. Nurse	Assoc Helena	X	

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. SB 196DATE 3-14-85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bill Roberts	Helena MT	X	
Mike Ballack	Helena MT	X	
Laurie Ekanger	Dept of Admin Hlms	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. SB 159

DATE 3-14-85

SPONSOR Sen Fuller

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.