

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 5, 1987

The meeting of the State Administration Committee was called to order by Vice Chairman Phillips on February 5, 1987, at 9:00 a.m. in Room 437 of the State Capitol.

ROLL CALL: Representative Peterson and Chairman Sales were excused. All other committee members were present.

CONSIDERATION OF HOUSE BILL NO. 469: Rep. Nancy Keenan, House District # 66, and sponsor of the bill, stated that the bill is being presented at the request of the Department of Institutions to eliminate the statutory requirements for the qualifications of the superintendent of the Montana State Hospital. The statute now requires that the superintendent must: (1) have a minimum of 3 year's full-time hospital administration experience; (2) be a physician legally qualified to practice medicine in Montana; or (3) have a masters degree in hospital administration. The present requirements restrict recruitment for the position, and limit flexibility in drawing from a broad pool of candidates. All personnel rules still apply, and the qualifications have to be job related.

PROPOSERS: Laurie Ekanger, Department of Administration, stated that it is unusual to have specific job and experience requirements in the law. The present statute places the state at a disadvantage when competing with other employers. The position is classified and all personnel rules apply such as recruitment, selection, and veterans and handicapped preference. The candidate must be selected on the basis of job qualification and the department is liable for proving that the selection was based on the governing criteria.

Kelly Moore, representing the Board of Visitors which is responsible for reviewing patient care and treatment at the state hospital, stated that the board supports the legislation if the department places Joint Commission on Accreditation of Hospital (JCAH) standards in the rules. JCAH rules require that the superintendent have a medical degree or masters degree in Administration, Psychology, Social Work, Education, or Nursing, or appropriate education.

Cliff Murphy, Mental Health Association of Montana, stated that a similar shift was made in another mental health facility

successfully and the association approves of granting greater flexibility.

On behalf of the Montana Council of Mental Health Centers, Steve Waldron, previous chair of the Montana Legislature's institutions subcommittee, supported the bill stating that Montana has had better luck hiring Montanans than with out-of-state applicants to fill director and superintendent positions. Mr. Waldron expressed a desire that the current acting director be given consideration even though she probably does not qualify under existing law.

Curt Chisholm, Department of Institutions, stated that the job qualifications outlined in the law are the last vestige of statutorily required job qualifications. The department would like to determine the job qualifications administratively to allow expediency in obtaining qualified people. The department is bound by affirmative action and equal opportunity employment practices. The department's experience is that candidates are not willing to consider the position unless the annual \$50,000 salary range available elsewhere is matched, and they have experienced a two-year turnover. The current acting superintendent does not meet the statutory requirements, but is doing a tremendous job. The department anticipates tying the qualifications to the JCAH credentials which require a medical degree or at least a masters in Administration, Psychology, Social Work, Education, or Nursing. However, experience may be substituted for a professional degree when it is carefully evaluated, justified, and documented by the governing body. The department would like this type of flexibility.

OPPONENTS: None

DISCUSSION OF HOUSE BILL 469: Rep. Cody inquired concerning the difference between a superintendent and a hospital administrator. Mr. Chisholm responded that the terms are used interchangeably. The head administrators are superintendents except at the Montana State Prison, where the term "warden" is used.

Rep. Keenan closed discussion on HB 469 stating that hiring a person because the statutory requirements are met may not necessarily be choosing the best administrator. The bill gives the department flexibility to find the best person for the job. Rep. Keenan urged that the bill be passed.

CONSIDERATION OF HOUSE BILL NO. 481: Rep. Spaeth, House District #84 and sponsor of the bill, stated that in the bill would change the organization of the Montana Board of Crime Control and reduce the number of board members. This is the largest board in state government consisting of 18 members. Membership consists

of "turf", but the Legislature needs to consider good management. The committee may wish to consider the addition of a member representing local government. The bill deserves serious consideration. A nine member board would be manageable and effective as well as build in a tie breaker.

PROPONENTS: None

OPPONENTS: Gordon Morris, Montana Association of Counties (MACo), stated that because the county commissioners play a very important role, MACo would like to see these entities continue to serve on the board.

Tom Harrison, Montana Sheriffs and Peace Officers Association, inquired: "If something isn't broken, why try to fix it?" Because all members are not able to attend every meeting, the savings are actually less than the potential \$2,000 indicated in the fiscal note. The association is concerned with maintaining the geographic as well as discipline dispersion because it deals with broad-based concerns. The present board allows for geographic, political, and economic distribution to better represent the people of this state.

Bill Westfall, Law Enforcement Academy, stated that the bill delivers the responsibilities of the POST Council to the new board. The POST Council's primary responsibility deals with selection and training issues for law enforcement officers and is a very important tool. Law enforcement needs the geographic and demographic diversity offered by the council; rural and urban needs for training are very different. This model has been used to advise police academies nationwide for 25 years and it works very well.

Jim Haynes, Montana Magistrates Association lobbyist, stated that the association would like to continue representation on this broad-based board.

Bob Butorovich, Butte-Silver Bow sheriff, legislative chairman for the Montana Sheriff and Peace Officers Association, and newly appointed sheriff to the Governor's Crime Control Board, stated that the present structure is operating adequately and should not be changed.

Alec Hanson, Montana League of Cities and Towns, reported that the league requests the appointment of an elected municipal official because the board sets employment standards by which mayors and city councils must operate.

Chuck O'Reilly, Lewis and Clark County sheriff, former Law Enforcement Academy chief, and former POST Council member, State

reiterated: "If it ain't broke, don't fix it." The Board of Crime Control's success is because of the broad-based representation. The entire criminal justice system benefits from the work the board does. The board has been decreasing in size. Thousands of personnel in a wide area of numerous disciplines are impacted by board decisions. Mr. O'Reilly stated that the Youth Justice Council, a voluntary organization dealing with federal grants, should not be abolished. The reduced board could not handle the wide-range of duties required.

DISCUSSION OF HOUSE BILL NO. 481: Rep. O'Connell asked how long the Crime Control Board has been in existence. Mike Lavin, board administrator, replied that it was created in 1968 by Governor Babcock. Mr. Lavin also reported that the board now has the responsibility of awarding \$2 million yearly to units of local government, so it needs to be represented to ensure that the distribution is made equitably. Additionally, Mr. Lavin reported that the board is concerned that the geographic balance would be lost with the reduction.

Rep. Pistoria inquired about the frequency of board meetings, and Mr. Lavin replied that the board meets quarterly.

Rep. Cody asked Rep. Spaeth why he is sponsoring this bill. Rep. Spaeth replied that: (1) the bill is being brought before the committee because the legislature has an oversight responsibility; (2) just because everyone opposes the bill doesn't make it bad; (3) the issue is one of turf. Agencies request budget increases, not cuts; and (4) the Legislature has to evaluate operations and say no when it is appropriate, rather than reacting to the expenditure side to make the agency more efficient.

Rep. Nelson asked if local government representation should be included in the bill. Rep. Spaeth replied that if the committee were to seriously consider the bill, local government representation should be included.

Rep. Cody stated that the composition of the board does not indicate any demographic considerations. Mr. Lavin replied that the reference in the testimony concerned membership on the POST Council (Exhibit #1, attached). The Governor considers the number of people a board member represents when making appointments, and in most cases has been able to accommodate requests for positions on the board.

In response to Rep. Nelson's inquiry, Mr. Lavin reported that the POST Council, a 13-member standing committee appointed by the Governor, is an acronym for Peace Officers Standards and Training Council, dealing exclusively with the promulgation of rules and

standards for selection, hiring, and training, of all city, county, and state peace officers. The duties of the council would be transferred to the board in the bill.

Discussion on HB 481 closed by Rep. Spaeth thanking the committee for serious consideration of the bill, as well as opponents for addressing valid concerns. Bureaucracies continue to grow, and efficiency needs to be evaluated. Several people have stated privately that the bill merits consideration. The Legislature needs to consider streamlining state government to eliminate bloated bureaucracy, by not continuing to replace lost federal funds with general funds.

CONSIDERATION OF HOUSE BILL NO. 484: Rep. Harper, House District #44, stated the bill will allow needed flexibility to be able to temporarily hire retired sheriffs as needed. The bill allows retired sheriffs to return to work for less than 60 days during a calendar year without having to sign up with the retirement system. The bill also equalizes death benefits with an early retirement provision, which leads to a possible small increase for some beneficiaries as indicated on the fiscal note. If House Bill 306 to reduce the years of service from 25 to 20 years is passed, there might have to be a correction made to the bill on page 2.

PROPOSERS: Tom Harrison, Sheriffs and Peace Officers Association, stated that this is a housekeeping bill and is needed for clarification.

Linda King, Public Employees' Retirement Division, reported that the board is in favor of the bill, and it is in line with current provisions. The board does not expect that the actuarial adjustment will have any financial impact on the system.

OPPOSERS: None

Discussion on House Bill 484 was closed.

CONSIDERATION OF HOUSE BILL NO. 559: Rep. Harp, House District #7, stated that the bill being presented is at the request of the Department of Revenue. Discussion was brought before the Revenue Oversight Committee. The purpose of the bill is to give liquor store agents flexibility to remain open on Sundays, Mondays, and holidays. As a result of a recent lawsuit, the court determined that agency stores have to operate the same as state-owned stores. As existing contracts are being renewed, agency stores are concerned that they will be prohibited from having the flexibility they have had since 1974. I know this committee is looking at other issues relative to the liquor division, and I hope this issue can remain separate.

PROPONENTS: Gary Blewett, Liquor Division administrator, submitted written testimony (Exhibit #2, attached). The department is requesting that agents continue to have flexibility to operate. Eighty-seven agency contracts do not limit the days of operation because the department interpreted 16-2-104 to apply only to state employee operated stores. Due to a recent court opinion the department will have to place the store hour limitation in all new agency contracts, and has already done so in the 12 most recent contracts. The agency approach combined entrepreneurial incentives to provide good service while maintaining the state's interest in controlling supply, number of outlets, retailer qualifications, and providing revenue.

Written testimony supporting HB 559 from Mike Grisnow, Lolo agent, is attached for the record (Exhibit #3).

OPPONENTS: Rep. Pavlovich, House District #70, and tavern owner representing 1,500 all-beverage licensees, opposed the bill stating that rather than pass the bill, the legislature should repeal the 1940s law to close at 2:00 a.m. The bill deprives tavern owners who pay good license fees from earning a living. This bill should be set aside to see what action is taken on the other bills being presented to take the state out of the liquor store business entirely.

Bob Durkee, Montana Tavern Association, opposed the bill because licensed package stores only do business on the days the state outlet is closed. Agency stores have an economic advantage because licensed package stores have to buy the merchandise, whereas agency stores are supplied the inventory and receive a commission when the merchandise sells. The association considers this unfair competition. In addition, the licensed package store pays a horrendous license fee to own an all beverage license. Don't take away one of the advantages of being able to merchandise on Sunday, Monday and holidays.

Roger Tippy, Montana Beer and Wine Wholesalers, stated that the Montana Beer and Wine Wholesalers joined with the tavern association in the lawsuit because if barriers are removed such as hours and days of operation, food conglomerates may underbid agents to carry wine and liquor as loss leaders in supermarkets. The wine distributors feel this proposal is unfair competition because wine distributors are not allowed to sell wine on consignment, but the state follows this practice with its agency stores. If the bill could be amended to incorporate the state provisions of House Bill 586, which states that the state continues in the wine business through stores run by state employees only, the wine distributors would not object to this action.

Rep. Pistoria stated that he was unhappy with the Department of Revenue's performance and would like to have the liquor store operations returned to its previous mode of operations, including exclusive wine sales.

Discussion on House Bill 559 was closed.

DISPOSITION OF HOUSE BILL NO. 469: Rep. Campbell moved DO PASS, seconded by Rep. O'Connell. Rep. Jenkins expressed concern with committee consistency in that yesterday the committee passed a bill requiring the Department of Health and Environmental Sciences administrator to be a doctor. Rep. Campbell stated this is a bill to help hire Montanans. Rep. Cody did not find actions to be inconsistent because of the difference in size of agencies. Rep. O'Connell agreed, stating that the Department of Health administrator serves the entire state. Rep. Holliday brought out the fact that the duties and job descriptions are so different, they can't be classified as similar. The motion passed unanimously.

DISPOSITION OF HOUSE BILL NO. 481: Rep. O'Connell moved DO NOT PASS, seconded by Rep. Jenkins. Rep. Campbell made a substitute motion of DO PASS AS AMENDED, to include an additional member representing local governments. There was no second to the Campbell motion so the committee reverted to the O'Connell DO NOT PASS motion. Rep. Cody commented that some programs originate under federal funding, and move to state general funding, but not in this instance. Rep. Jenkins stated that Rep. Spaeth may be right about growing bureaus. The motion passed 15-1 with Rep. Campbell voting no.

DISPOSITION OF HOUSE BILL NO. 484: Rep. Jenkins moved DO PASS, seconded by Rep. Moore. The motion passed 15-1 with Rep. Whalen voting no.

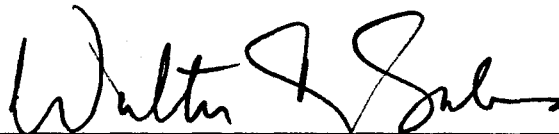
DISPOSITION OF HOUSE BILL NO. 559: Rep. Roth moved to TABLE the bill until action is taken on other bills relative to the liquor stores, seconded by Rep. Moore. The motion passed 14-2 with Rep. Cody, and Rep. Campbell voting no.

DISCUSSION CONCERNING HOUSE BILL NO. 364: Chairman Sales reported that tie votes stay in committee reflecting no committee action, and moved to SEND THE BILL TO THE FLOOR WITHOUT RECOMMENDATION, seconded by Rep. Campbell. Rep. O'Connell made a substitute motion, DO NOT PASS, letting the bill lay on the table, seconded by Rep. Roth. Rep. Whalen inquired what the rules state concerning members not being present to vote. Chairman Sales reported that Rep. Fritz, the only non-voting member, did not want to leave a vote on the bill. Rep. Nelson made a substitute motion to REFER THE QUESTION TO THE RULES

Administration Committee
February 5, 1987
Page - 8 -

COMMITTEE, seconded by Rep. Roth. After considerable discussion, committee consensus was to defer action and consult the rules committee.

ADJOURNMENT: There being no further business to come before the committee, the hearing adjourned at 11:00 a.m.



Walter R. Sales, Chairman

DAILY ROLL CALL

State Administration

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/5/87

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales		X	X
John Phillips	X		
Bud Campbell	X		
Dorothy Cody	X		
Duane Compton	X		
Gene DeMars	X		
Harry Fritz	X		
Harriet Hayne	X		
Gay Holliday	X		
Loren Jenkins	X		
Janet Moore	X		
Richard Nelson	X		
Helen O'Connell	X		
Mary Lou Peterson		X	
Paul Pistoria	X		
Rande Roth	X		
Tonia Stratford	X		
Timothy Whalen	X		

EXHIBIT #1
DATE 2/5/87
HB 481

P.O.S.T. ADVISORY COUNCIL

1986

Bob Harvie
Department of Sociology
Wilson Hall
Montana State University
Bozeman, MT 59715
994-4201

Gary Fjelstad, Sheriff
Treasure County
Hysham, MT 59038
342-5211

Col. Robert Landon, Chief
Montana Highway Patrol
303 North Roberts
Helena, MT 59620
444-3780

James Burnes, Undersheriff
Cascade Co. Sheriff's Dept.
Great Falls, MT 59401
761-6842

William Westfall
Administrator
Montana Law Enforcement Academy
620 South 16th Avenue
Bozeman, MT 59715
994-3918

Bob Bird
Training Officer
Law Enforcement Division
Department of Fish, Wildlife
and Parks
1420 East Sixth Avenue
Helena, MT 59620
444-2452

Ray Stoner
Outlook, MT 59252
895-2233

Capt. Jere Wamsley
Billings Police Department
Billings, MT 59101
657-8200

Beth J. Winter
1817 Bridge Street
Miles City, MT 59301
232-4847

Martin Stefanic
Chief of Police
Drawer 1997
Kalispell, MT 59903
755-2121

Gary Olson
Director of Law Enforcement
Dawson College
Glendive, MT 59330
365-3396

Kenneth Duncan
County Commissioner
Box 156
Dupuyer, MT 59432

Don Driscoll, Mayor
520 4th Avenue
Havre, MT 59501
265-6719

Exhibit #

EXHIBIT 172
DATE 2/5/87
HB 559

Testimony
Gary Blewett, Administrator
Liquor Division, Dept. of Revenue
HB559
House State Administration Committee

The department has requested this bill as an effort to re-establish a practice that has been going on for 14 years. The first agency-operated store was put under contract in 1974. Since that time and until recently agencies have had the flexibility under our contracts to operate on Sundays, Mondays, and holidays.

For most of the liquor system's existence, it has maintained approximately 140 outlets. Until 1974 those outlets were all operated by state employees. In 1974 the law was changed to allow outlets to be run by agents paid on commission. The number of agency-operated stores has grown in those 14 years to 99 agencies, and the number of state-employee-operated stores has declined to 40.

Since the 1974 law establishing agencies, agencies have not had to operate with the restrictions on closing days that were applied to state-employee-operated stores. Eighty-seven of our agency contracts do not limit the days an agency can be opened. When those 87 contracts were signed, the department interpreted the section of law concerning "store hours" (Section 16-2-104) to apply only to state-employee-operated stores, and that the 1974 law change created another classification of outlet that was not limited by the "store hours" section.

Due to a recent court opinion, we cannot continue treating the days that an agency operates differently under current law. Due to that court opinion, our 12 most recent agency contracts require those agents to be closed for sales on Sundays, Mondays, and holidays. As long as the law remains as it is, all new agency contracts and all renewals of existing agency contracts will have to have this limitation.

The department believes that this law change to allow agencies to continue a practice that has been going on for 14 years is worthwhile. The agency approach combines entrepreneurial incentives to provide good service while maintaining the state's interest in controlling supply, number of outlets, retailer qualifications, and in providing revenue. Part of good service is adjusting days of operation to customer demand.

The most obvious example of the difficulties the days of operation limitation creates is the periodic criticism our state-employee-operated stores take when they must close on traditional high volume sales days--the day before Christmas and the day before New Years. Every few years those days fall on a day a state-employee-operated store must close. And then the editorials and letters to the editors come out complaining about the bureaucracy's lack of business sense. We would like to let our agents continue to use their business sense.

Exhibit 4 ->

HB 557 ROOM 437 ADMINISTRATION COMMITTEE

REP HARR / Committee

EXHIBIT #3
DATE 3/5/87
HB 559

I SPEAK FOR MANY AGENTS WHO ARE BUSY RUNNING THEIR STORES, BUT SHARE THE SAME FEELINGS + CAN'T BE AT THIS HEARING -

WE SUPPORT HB 557 BECAUSE IT AFFECTS OUR ABILITY TO BE PROFITABLE, PROVIDE QUALITY SERVICE, BE CREATIVE IN OUR MERCHANDISING EFFORTS, + TO INCREASE OUR TOTAL SALES.

I HOPE THE COMMITTEE WILL RECOGNIZE THE IMPORTANCE OF KEEPING THE AGENCY STORES TO CONTINUE TO PROVIDE PROFITS TO THE STATE, GOOD SERVICE TO OUR CUSTOMERS, MANY FULL + P/T JOBS TO YOUR CONSTITUENTS, AND A RETURN OF TAX + SPENDABLE DOLLARS TO OUR COMMUNITIES.

I URGE YOU NOT TO IMPEDA OUR ABILITY TO OPERATE + PLEASE DON'T MAKE THIS BUSINESS ANY MORE DIFFICULT, TO PRODUCE A PROFIT, THAN IT ALREADY IS!

302 W. Broadway 549-5550
444-5529 FAX # in Helena
MARSHA WOLSTADT

MIKE ORLNOW
AGENT, Lolo, MONT.

STANDING COMMITTEE REPORT

February 5, _____ 19 87

Mr. Speaker: We, the committee on State Administration

report House Bill 469


do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

**Bill to eliminate qualifications for the Superintendent of the
Montana State Hospital.**


First reading copy (white)
color

STANDING COMMITTEE REPORT

February 5

19 87

Mr. Speaker: We, the committee on State Administration

report House Bill 484


do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

Bill generally revising provisions of sheriffs' retirement system.


First _____ reading copy (white)
color

STANDING COMMITTEE REPORT

February 5

19 27

Mr. Speaker: We, the committee on State Administration

report House Bill 481

do pass

do not pass

be concurred in

be not concurred in

as amended

statement of intent attached

Chairman

Bill to decrease size of Board of Crime Control and change appointment process.

JNS
First

reading copy (white)
color

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. HR 469

DATE 2/5/87

SPONSOR Keenan Menahan

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Laurie Ekanger	Personnel Div. / Dept of Admin	✓	
Keeny Moore	Board of Visitors	✓	
STEVE WALDRON	MENTAL HEALTH CTRS.	✓	
Phil Murphy	MHAM - Pub. Pol. Comm	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 481

DATE 2/5/87

SPONSOR Spaeth

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>London Morris</i>	<i>MA Co</i>		✓
<i>Alce Hansen</i>			✓
<i>Tom Hansen</i>	<i>mt. Stuyff + Peace #1</i>		✓
<i>Chuck O'Rilly</i>	<i>" " " "</i>		✓
<i>Bule Guttorich</i>	<i>" " " "</i>		✓
<i>Juni HAYNES</i>	<i>mt. May DSSN</i>		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. HB 484

DATE 2/5/87

SPONSOR Harper, Strizich

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
LINDA KING	Public Employees' Retirement Div.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. HB 559

DATE 2/5/87

SPONSOR Harp

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Gary Blawett	Dept. of Revenue	X	
Bob Durkee	MTA		X
Paul H. Pistoria	State Rep. Dist 36		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.