

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By CHAIR JAN BROWN, on January 16, 1991, at 9:00 a.m.

**ROLL CALL**

**Members Present:**

Jan Brown, Chair (D)  
Vicki Cocchiarella, Vice-Chair (D)  
Beverly Barnhart (D)  
Gary Beck (D)  
Ernest Bergsagel (R)  
Fred "Fritz" Daily (D)  
Ervin Davis (D)  
Jane DeBruycker (D)  
Roger DeBruycker (R)  
Gary Feland (R)  
Gary Forrester (D)  
Patrick Galvin (D)  
Harriet Hayne (R)  
Betty Lou Kasten (R)  
John Phillips (R)  
Richard Simpkins (R)  
Jim Southworth (D)  
Wilbur Spring (R)  
Carolyn Squires (D)

**Staff Present:** Sheri Heffelfinger, Legislative Council, and Judy Burggraft, Committee Secretary.

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** No meeting on Thursday or Friday. There will be a joint meeting with the Senate at 10:00 a.m. Friday on the Martin Luther King Day bill.

**EXECUTIVE ACTION ON HB 38**

**Motion:** REP. ROGER DEBRUYCKER moved HB 38 DO PASS.

**Discussion:**

CHAIR BROWN said Robert L. Mullen, Deputy Director, Department of Labor and Industry, had written a letter in response to the

problem raised when HB 38 was introduced. Chair Brown read the letter. EXHIBIT 1

REP. RICHARD SIMPKINS asked if Mr. Mullen had submitted an amendment. CHAIR BROWN said no, they had tried to work out an amendment but were unable to agree on the wording. Sheri Heffelfinger said she had worked with Mr. Mullen on wording to clarify that the Auditor's Office would just add an extra charge to the debt that had been collected. When the debt was collected, the fee for collection would be retained by the Auditor with the remainder of the debt being paid to the Department of Labor. After researching the statutes and talking with Debbie VanVliet, Department attorney, it was determined that no clarification of the language was necessary as Statute 39 Chapter 51 was adequate to address the Department of Labor and Industry's concern. No amendment was prepared.

REP. SIMPKINS questioned if there would be problems in the two departments if they are not able to get along in the future. He believes the bill would leave a portion "unaddressed." Ms. Heffelfinger discussed the problem with Greg Petesch, Director of the Legislative Council's Legal Services Division, and they don't have any concern with it.

Vote: Motion CARRIED unanimously.

#### EXECUTIVE ACTION ON HB 16

Motion: REP. PATRICK GALVIN moved HB 16 DO PASS.

#### Amendments, Discussion, and Votes:

Sheri Heffelfinger distributed a list of six amendments and explained them. EXHIBIT 1 All amendments discussed in Committee were consolidated onto one page. The first two amendments are the result of Rep. Daily's proposed amendments to address the problem of when no responsible in-state bidder is found, an out-of-state bidder may do the work. Rep. Kasten questioned whether it was stated in the bill, the bid would be awarded to the lowest possible bidder outside of the state and whether there was a process already in place to provide for the lowest responsible bidder outside the state to do the job. The answer to Rep. Kasten's question was no.

Amendment No. 3 is the same as amendment No. 2 except that it provides for the lowest responsible bidder outside the state.

Amendment No. 4 is related to the questions raised on how to control cost if the bid is awarded to an in-state bidder when there is only one bidder within the state. The bidder then would be able to set the bid at whatever amount they want and still be the lowest bidder in the state. It was too complicated to tie

the bid to previous costs. The in-state bidder will be awarded the bid if it does not exceed the state's estimated cost by more than BLANK percent. Ms. Heffelfinger left the percent blank as she did not know at what percent it should be set.

Amendments No. 5 and No. 6 are to clarify that federal funds are not subject to the preference. The amendment is optional as it is in practice at the present time; federal funds are excepted from preference.

REP. SIMPKINS said, "If we accept the concept of amendment No. 3, we can eliminate No. 2."

Motion: REP. SIMPKINS moved amendment No. 2 be struck. Motion CARRIED unanimously.

Discussion: REP. JOHN PHILLIPS raised a question on amendments No. 5 and 6 concerning "federally funded projects." Would federal funds be exempted if a project were only partially funded by federal funds. Marvin Eicholtz, Administrator of the Publications and Supply Bureau, Department of Administration, was requested to respond. He did not think he could respond, but normally when the project has any federal funds, it is exempted from the preference rule.

REP. SIMPKINS asked Rep. Phillips if the word "printing" could be injected and the amendment would then read "federally-funded printing projects" for clarification. REP. PHILLIPS said he did not think that would help.

REP. GARY BECK questioned if it was based on policy or on statute and if there were a need for amendments No. 5 and No. 6. Mr. Eicholtz said federally-funded projects were addressed in 18-1-102 MCA where it addresses state contracts to lowest resident bidder. There is a section at the bottom, "preferences in this section, and it then refers to the 3 percent and 5 percent preferences, apply to contracts involving contracts not unobtained from the federal government unless expressly prohibited by the laws of the United States or regulations adopted pursuant thereto." This is what the Agency uses to apply the 3 to 5 percent preference. CHAIR BROWN said, "This amendment would then not be necessary." MS. HEFFELFINGER said the last two lines of the bill are stricken that refer to 18-1-102 MCA; the bill is no longer tied to 18-1-102 MCA.

REP. SIMPKINS asked if "federal exemption as specified in 18-1-102 apply. Ms. Heffelfinger said that would be acceptable. CHAIR BROWN said that wording could be substituted for amendments No. 5 and 6.

Motion: REP. FRED "FRITZ" DAILY moved amendments No. 1 and No. 2 be adopted.

Discussion: REP. VICKI COCCHIARELLA questioned the amendment as "it doesn't seem to take care of the question about what would happen if the in-state bidder receives the bid, is unable to do the work and wants to hire an out-of-state jobber to print outside the state." Mr. Eicholtz said, "Should there be an instance such as Rep. Cocchiarella gave, if that bidder could not perform the job after the bid has been awarded, the job would have to be jobbed out to a Montana printer, which is unlikely." The job would then be taken away and given to the next in-state responsible bidder. If there is none, then it would go to the lowest responsible bidder out of state. REP. SIMPKINS said under the provisions of amendments No. 1 and 3, an in-state bidder could bid as an out-of-state bidder if he knows he is going to job the work out of state. The in-state bidder would just have to state that on the bid.

Vote: Motion CARRIED unanimously.

Motion: REP. BETTY LOU KASTEN moved Amendment No. 4 DO PASS.

MOTION: REP. WILBUR SPRING moved the percentage be 3 percent to keep it as low as feasible.

Discussion: REP. DAILY said that if this amendment is included, there is no sense in having the bill. "You either like the bill or you don't like the bill. If you don't like the bill vote no." REP. KASTEN said she understood what Rep. Daily was saying and agrees and that she did not anticipate the 3 percent. Her understanding of the bill was to encourage printers within the state to acquire the capabilities of doing some printing but she did not want a "runaway." Rep. Kasten asked Mr. Eicholtz what percentage should be in the bill. Mr. Eicholtz responded the differences in the bidding are around 30 percent on the average. Some are 6 percent higher and several larger than that. A couple of states have a 10 percent preference. Montana has a 5 percent preference now. The problem with the percent is "10 percent of the state's estimated cost." If the state is wrong when it estimates cost and is outside the 10 percent, then the state would have problems. "It is much better to have preference, if you are going to have one, to compare it to other bids." REP. KASTEN asked if "estimated costs" should be substituted for "comparative bids." Mr. Eicholtz said he would like to see where you gave a 10 percent preference to the in-state firm in comparison to the out-of-state firm. REP. CAROLYN SQUIRES asked Rep. Daily if putting the 10 percent in would defeat the purpose of the bill. REP. DAILY said if "10 percent or even 100 percent were put in, he would vote against it." REP. SIMPKINS said we are getting to the real essence of the bill's purpose. REP. DAILY said he did not think there was any question about the intention of the bill. The intent of the bill is to keep Montana jobs in Montana. Discussion followed concerning salaries paid skilled versus unskilled labor in Montana.

**Motion:** REP. KASTEN made a substitute motion to change the 3 percent figure to 10 percent. Motion FAILED 6 - 13. EXHIBIT 3

REP. SPRING withdrew his motion for a 3 percent figure.

CHAIR BROWN requested Ms. Heffelfinger read the amendment as stated by Rep. Simpkins. Ms. Heffelfinger said amendment No. 6 would read: "following the stricken 18-1-102 RCA, there would be a new sentence" reading, "Federal exemptions as specified in 18-1-102 RCA apply."

**Motion:** REP. SIMPKINS moved to reword the amendments 5 and 6. The motion CARRIED unanimously.

Discussion on the proposed amendment by the Montana Cultural Advocacy group with two amendments concerning General Fund money followed. Ms. Heffelfinger explained the amendments. The purpose for the amendment by Gloria Hermanson, Montana Cultural Advocacy, is so only General Fund money should be applied to the preference. All special revenues raised from private donors and federal funds belonging to the Historical Society would not be subject to any preference. Ms. Hermanson did not have any idea as to the percentage those projects are nor what they are. REP. GALVIN asked if all state printing was done with General Fund money. Mr. Eicholtz said the answer is no. It is usually done with a variety of funds. REP. GALVIN asked, "What is the point of the amendments?" Ms. Heffelfinger said the point was they want to limit the preference to only general fund money; therefore, no preference would apply if they are doing a printing job. REP. SIMPKINS said, "They have an excellent point. . . . Any contributions of non-state money should be exempt from this provision. The university should be after the same thing." Mr. Eicholtz said, "What I believe they are trying to do is to exempt themselves from the effect of the bill. If this is the case and the amendment passes, . . . it will mean fewer jobs in the state." No motion was made on the amendment.

**Motion:** REP. DAILY moved HB 16 DO PASS AS AMENDED.

**Discussion:** REP. SIMPKINS said in regard to a letter from Thompson Printing, "There were some mistakes in the statements." One mistake is "a very key mistake where he says it will improve the economy of Montana." The letter referred to a Printing Committee vote decision and distributed EXHIBIT 4. Under the Printing and Economic Growth section done by Paul Polzin, the Director of the Bureau of Business and Economic Research in Missoula, he refers to export industries and derivative industries, where the discussion centered on the whole idea of transferring more business from the state printers to the private sector. His conclusion is that it has little or no effect on economic growth. What we would be doing with this bill is not encouraging as much import business as export. At the present time, the printers have almost no business capable for printing jobs taken from out-of-state sources. States with big presses

take the business from Montana; we are just transferring money and we will be paying more and not actually improving the economy within the state. The total printing could run as much as \$300,000 to \$600,000 higher with the passage of this bill. The Committee might want to consider a committee bill to give a tax break for the purchase of equipment as long as the printers create X number of jobs with the exemptions applying for three years and then apply the standard phase in that is already on the books of 20 percent over the next 5 years, with a 2-year or 4-year sunset on the window of opportunity if we want economic development and want printers to be capable of competing against high speed printers. We are talking about a \$2 million dollar investment of a web press so catalogs and color jobs could be done in Montana. In Great Falls there would be a \$79,000 tax on the equipment. With a web press, they could possibly hire within a year another 30 people full time, and recapture business from private sources such as Montana Power and D.A. Davidson and even compete competitively with Wyoming, Idaho and Washington. State printing business is minute compared to private business generated within the state that goes to out-of-state printers. There are four firms in Montana that can afford to make that investment: (1) Advance Litho, Great Falls; (2) Art Craft, Bozeman (3) Color World, Bozeman; and (4) Thomas Printing, Kalispell. "There are no guarantees with this bill that the in-state printers will go out and buy equipment. This bill is going to cost us plenty, and we will not see the realization of the good jobs that we really need in the state." CHAIR BROWN said that Rep. Simpkins had until tomorrow to get in a draft request. REP. SIMPKINS said he understood that but he would like to have a bipartisan committee bill to encourage and promote the printing industry within the state.

Vote: Motion CARRIED 11 - 8. EXHIBIT 5

#### EXECUTIVE ACTION ON HB 45

Motion: REP. ROGER DEBRUYCKER moved HB 45 DO PASS.

#### Amendments, Discussion, and Votes:

A technical amendment by Greg Petesch was discussed. On Pg. 3, Ln. 17, following Ln. 16, insert "(8) This section does not apply to payments required by law." Ms. Heffelfinger explained the new section provides for review by the Analyst and the Legislative Finance Committee and then final approval by the Approving Authority. The amendment would say that this section does not apply to payments required by law. It is a technical amendment so there would be no conflict with current law.

REP. KASTEN moved to adopt the technical amendment. Motion CARRIED unanimously.

**CHAIR BROWN** requested Ms. Heffelfinger to explain Jane Hamman's amendment in which the Budget Office wanted clarification of the language. **Ms. Heffelfinger** said that on Pg. 10, Lns. 19 and 20, the bill now reads "subject" to the review process. Any non-state and non-federal funds are subject to the review process provided in the new Sect. 1 and excepted from the requirements of this part. They want to clarify that it is subject either to the review process in Sect. 1 "or to the language in authorization acts in other bills."

**REP. ROGER DEBRUYCKER** moved to adopt the technical amendment. Motion **CARRIED** unanimously.

**REP. VICKI COCCHIARELLA** said she would not move to adopt her amendment unless someone else chose to do so as she would like to propose another amendment. She had spent considerable time researching the intent of the bill by the Legislative Finance Committee (LFC). HB 45 is a result of the furor raised when the Governor traveled around the state with the Education Forums. Some people were angry that private donors had funded the forums. U.S. West was one sponsor. The LFC requested Mr. Petesch to check into the matter, and the report, entitled Legislature's Power over the Appropriation of Federal and Private Funds, is the result. The LFC thought possibly there were illegal things going on with the way the state was taking and spending money. Dorothy Bradley told Rep. Cocchiarella with the way the bill is drafted, "We are going after a mouse with a cannon." Basically what the LFC wants to do is not look at every single private dollar but to make sure that at certain times funds received by the state don't give the public the idea a new service will be provided which the state would then be expected to continue to fund.

**Motion:** **REP. COCCHIARELLA** moved on Pg. 1, Ln. 17 after "money" insert "for a new service."

The absence of this amendment would mean that if there is some new service state government wants to provide, funded by federal or private sources, it would have to come before the LFC before its acceptance or approval. **Mr. Petesch** said that even with the amendment and bill, the LFC will "go crazy" the first time it has to interpret the intention of a stack of contracts. The LFC will probably come back next session and repeal the legislation.

**REP. SIMPKINS** questioned Pg. 1, Ln. 19, where the Committee deleted the current restricted sub fund. He said, "If we strictly stick to the state special revenue fund, wouldn't that take care of all that?" **REP. COCCHIARELLA** said, "yes" and "no." She would be willing to pass the other amendment but this applies to more situations than just that amendment. "There are many things in state government where private donations are being given. This language would only require LFC to look at any new service (provided) by some government entity. The amendment would not affect ongoing services already there."

Vote: Motion CARRIED 16 - 3 with REPS. SIMPKINS, PHILLIPS and ROGER DEBRUYCKER voting no.

Motion: REP. DAVIS moved HB 45 DO PASS AS AMENDED.

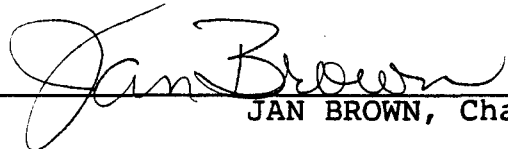
Motion: REP. SQUIRES made a substitute motion that HB 45 DO NOT PASS AS AMENDED.

REP. DAILY said all have considered the controversial bill quite a bit in the last few days. It will have a large impact on the University system especially. He referred to Rep. Spring's question, "What if there was a corporation that wanted to make a large donation to a university or . . . college in Montana. If they knew they had to go through this process, is there a possibility that they would make their donation to an out-of-state university or college?" He had contacted some people from Montana Tech, who said they have been informed that a large grant they are in the process of receiving may not be awarded if the donor has to go through this process.

Motion/Vote: REP. DAILY moved to TABLE HB 45 BILL AS AMENDED. The motion carried unanimously.

ADJOURNMENT

Adjournment: 10:08 a.m.

  
\_\_\_\_\_  
JAN BROWN, Chair

  
\_\_\_\_\_  
JUDY BURGRAFF, Secretary

JB/jb



HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 1/16/91

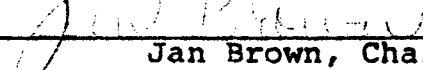
NAME	PRESENT	ABSENT	EXCUSED
REP. JAN BROWN, CHAIR	✓		
REP. VICKI COCCHIARELLA, VICE-CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. GARY BECK	✓		
REP. ERNEST BERGSAGEL	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. JANE DEBRUYCKER	✓		✓
REP. ROGER DEBRUYCKER	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. PATRICK GALVIN	✓		
REP. HARRIET HAYNE	✓		
REP. BETTY LOU KASTEN	✓		
REP. JOHN PHILLIPS	✓		
REP. RICHARD SIMPKINS	✓		
REP. JIM SOUTHWORTH	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		

HOUSE STANDING COMMITTEE REPORT

January 16, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 38 (first reading copy -- white) do pass .

Signed:   
Jan Brown, Chairman

HOUSE STANDING COMMITTEE REPORT

January 16, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 16 (first reading copy -- white) do pass as amended.

Signed: Jan Brown  
Jan Brown, Chairman

And, that such amendments read:

1. Title, line 7.

Following: "BIDDER;"

Insert: "PROVIDING THAT IF THERE IS NO RESPONSIBLE IN-STATE  
BIDDER, THE WORK MAY BE PERFORMED BY THE LOWEST REPOSIBLE  
BIDDER OUTSIDE THE STATE;"

2. Page 1, line 16.

Following: "~~18-1-102.~~"

Insert: "If there is no responsible in-state bidder, the work may  
be performed by the lowest responsible bidder outside the  
state. Federal exemptions as specified in 18-1-102(2)(b)  
apply."

CLERICAL

Judy

HOUSE Bill No. 16

Date: 1/16/91

Time: 2:27

SBA  
(Legislative Council Staff)

State Admin  
S / H Standing Committee  
Jim Brown  
(Chairman)

S / H Committee of the Whole  
(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #1 should read:

Insert: "PROVIDING . . . PERFORMED BY THE  
LOWEST (RESPONSIBLE) RESPONSIBLE BIDDER. . ."

misspelling

**TABLED BILL**

Stat Administration  
Name of Committee

Date 1/16, 1991

The following bill HB 45 AS AMENDED  
was TABLED, by motion, on 1/16, 1991.

Jud Burgess  
For the Committee

D. K. Hall  
For the Chief Clerk

11:51 a.m.  
Time

CS-04  
1991

1-16-91  
Date

534

DATE 1/16/91  
HB 38

DEPARTMENT OF LABOR AND INDUSTRY

COMMISSIONER'S OFFICE



STAN STEPHENS, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3555

HELENA, MONTANA 59624

January 16, 1991

Representative Ed Grady  
Capitol Station  
Helena MT 59620

Re: HB 38

Dear Representative Grady:

After conferring with Ken Rudio and Debbie Van Vliet of the State Auditor's office, the Department of Labor and Industry will forego its desire to amend HB 38 based largely upon the excellent relationship that has developed between the two agencies.

Although the department does have concerns relative to federal conformity and the potential for federal sanctions, such as the loss of federal employer tax credits, the department is willing to give the Auditor's office proposal the benefit of the doubt.

But, in the event that the department experiences difficulties arising from (1) failure to collect 100% of debts relative to 39-51-3207 MCA or (2) a request from our federal counterparts concerning federal non-compliance we will seek to amend the statute in a subsequent legislative session.

The intent of HB 38 indeed has great merit. The funding of this public service rests with those responsible for the service, not the general taxpaying public of Montana. Thanks to you, the committee and the Legislative Council for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob".

Robert L. Mullen  
Deputy Director

cc: Rep. Jan Brown  
Ken Rudio  
Don Gilbert

Amendments to House Bill No. 16  
First Reading Copy

For the Committee on State Administration

Prepared by Sheri S. Heffelfinger  
January 15, 1991

1. Title, line 7.

Following: "bidder;"

Insert: "providing that if there is no responsible in-state  
bidder, the work may be performed by an out-of-state  
bidder;"

2. Page 1, line 16.

Following: "~~18-1-102.~~"

Insert: "If there is no responsible in-state bidder, the work may  
be performed by a responsible bidder outside the state."

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3. Page 1, line 16.

Following: "~~18-1-102.~~"

Insert: "If there is no responsible in-state bidder, the work may  
be performed by the lowest responsible bidder outside the  
state."

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4. Page 1, line 14.

Following: "bidder"

Insert: "if his bid does not exceed the state's estimated cost by  
more than \_\_\_\_\_ %."

-----  
5. Title, line 7.

Following: "bidder;"

Insert: "exempting federally-funded projects from the in-state  
preference"

6. Page 1, line 13.

Following: "Montana"

Insert: ", except for federally-funded projects,"

EXHIBIT 2a  
DATE 1-16-91  
HB 16

Amendments to House Bill No. 16  
First Reading Copy

MONTANA CULTURAL ADVOCACY

January 15, 1991

1. Title, line 5.  
Following: "state"  
Insert: "with general fund money"

2. Page 1, line 13.  
Following: "Montana"  
Insert: "with general fund money"

Gloria Hermanson  
Montana Cultural Advocacy



EXHIBIT 3  
DATE 1/16/91  
HB 16

HOUSE OF REPRESENTATIVES  
STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 1/16/91 BILL NO. H.B. 16 NUMBER 1

MOTION: To insert a 10% figure in the blank  
on Amendment No. 4.

NAME	AYE	NO
REP. VICKI COCCHIARELLA, VICE-CHAIRMAN		✓
REP. BEVERLY BARNHART		✓
REP. GARY BECK		✓
REP. ERNEST BERGSAGEL		✓
REP. FRED "FRITZ" DAILY		✓
REP. ERVIN DAVIS		✓
REP. JANE DEBRUYCKER		✓
REP. ROGER DEBRUYCKER	✓	
REP. GARY FELAND	✓	
REP. GARY FORRESTER		✓
REP. PATRICK GALVIN		✓
REP. HARRIET HAYNE	✓	
REP. BETTY LOU KASTEN	✓	
REP. JOHN PHILLIPS	✓	
REP. RICHARD SIMPKINS	✓	
REP. JIM SOUTHWORTH		✓
REP. WILBUR SPRING		✓
REP. CAROLYN SQUIRES		✓
REP. JAN BROWN, CHAIR		✓
TOTAL	6	13

EXHIBIT 4  
DATE 1/16/91  
HB 16

## **APRIL 21, 1988 MEETING - UNIVERSITY OF MONTANA, MISSOULA**

### **Publication and Graphics Surveys**

The Council reviewed surveys evaluating the services of the Publications and Graphics Bureau. One survey polled legislators toward the end of the last session, and the other was aimed at Publications and Graphics' general customers. The survey results generally indicated a high degree of satisfaction with Publication and Graphics' services (**attachments 5 and 6**). The Council called for a similar survey to be completed for printing work produced by the private sector. (See Attachment 9)

### **Position Description Review**

The Council attempted to review position descriptions and salary information in state government and the private sector for cost comparison. However, the information was determined to be difficult to compare due to the variation in information provided by the private sector and state government. While government positions all had detailed job descriptions outlining responsibilities of the positions, private sector positions did not have detailed job descriptions. However, the private sector Council members came to the conclusions that:

1. State government wages and benefits paid to State print shop employees generally exceed that paid in the private sector in Montana.
2. Productivity in State government print shops is generally lower than in private print shops.

The other Council members noted that not enough information was provided to the Council to come to these conclusions.

### **Printing and Economic Growth**

Paul Polzin, Director of the Bureau of Business and Economic Research in Missoula, spoke to the Council about economic growth in Montana. He divided Montana into two sectors: (1) Export industries and (2) derivative industries. He explained that export industries are located in Montana but sell their goods out-of-state. If we have growth in these industries, this generates real economic growth. Derivative industries serve in-state business. He explained that export industries can have an effect on derivative industries; however, it does not work the other way. A change in derivative industries does not affect export industries or real economic growth. He explained that economic growth comes from an increase in export industries. Mr. Polzin noted that when you look at private in-state printing versus public printing simply from an economic point of view, you are looking at two derivative industries. He stated that the impact would be imperceptible if you replaced a public print shop with a private shop as long as they were equally efficient.

### **Council Scope Identification**

The Council identified areas where members could reach a consensus to narrow the scope of the Council's work. The following conclusions were unanimously reached by the Council:

1. Bill printing for the Legislature should continue to be done by the Publications and Graphics Bureau.
2. Copies made on a photocopy machine are not a concern of this Council. However, management should determine guidelines for when photocopies are cost effective and when other duplicating methods should be used.

EXHIBIT 5  
 DATE 1/16/91  
 HB 16

HOUSE OF REPRESENTATIVES  
 STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 1/16/91 BILL NO. HB 16 NUMBER 2

MOTION: \_\_\_\_\_  
HB 16 as amended Carried 11-8.

NAME	AYE	NO
REP. VICKI COCCHIARELLA, VICE-CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. GARY BECK	✓	
REP. ERNEST BERGSAGEL		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ERVIN DAVIS	✓	
REP. JANE DEBRUYCKER	✓	
REP. ROGER DEBRUYCKER		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER	✓	
REP. PATRICK GALVIN	✓	
REP. HARRIET HAYNE		✓
REP. BETTY LOU KASTEN		✓
REP. JOHN PHILLIPS		✓
REP. RICHARD SIMPKINS		✓
REP. JIM SOUTHWORTH	✓	
REP. WILBUR SPRING		✓
REP. CAROLYN SQUIRES	✓	
REP. JAN BROWN, CHAIR	✓	
<b>TOTAL</b>	<b>11</b>	<b>8</b>

# To Their Dismay, Scholars of Martin Luther King Find Troubling Citation Pattern in Academic Papers

DATE 1/21/91 587

*Continued From First Page*

in 1984 Congress declared his birthday a federal holiday.

The discovery is part of a revisionist picture of Mr. King that has been emerging from recent books and academic papers. Those point up some of his human flaws and portray him as less of a myth and more of a man, as more of a brilliant leader than a ground-breaking thinker. Perhaps the most controversial was Ralph Abernathy's recent autobiography, which included allegations that Mr. King spent time with a woman friend the night before he was assassinated.

A book due out next spring will examine the origins of many of Mr. King's speeches, sermons and essays. Author Keith Miller, a professor of rhetoric and composition at Arizona State University, won't comment on his research. But in two academic articles published in 1986 and last January, Mr. Miller shows how passages in Mr. King's books "Strength to Love"

and "Stride Toward Freedom" and in his famous essay "Letter from Birmingham Jail" echoed parts of sermons and books by several ministers and writers, particularly Harry Emerson Fosdick, who was at Riverside Church in New York, and Harris Wofford, author of a book on nonviolence and now Pennsylvania's labor secretary.

For example, Mr. Miller points out, Mr. King echoed Mr. Fosdick nearly word-for-word when he wrote: "Any religion that professes to be concerned about the souls of men and is not concerned about the slums that damn them . . . is a spiritually moribund religion."

Mr. Miller believes Mr. King's technique stemmed from the oral traditions of the black church. There, words weren't regarded as private property but as a shared resource for the community. He and others believe Mr. King excelled at "voice merging," as scholars call it, blending other people's words with his own.

## How Questions Arose

From 1948 to 1955, Mr. King received high marks as a divinity student at Crozer Theological Seminary in Pennsylvania, where he graduated at the top of his class, and then as a doctoral candidate at Boston University. The questions about his academic work surfaced in late 1987, nearly 20 years after his death. A Stanford graduate student working for the King papers project found that, in some parts of Mr. King's dissertation, he lifted passages nearly word for word from other texts without using any quotation marks or footnotes.

In other places in his dissertation, titled "A Comparison of the Conceptions of God in the Thinking of Paul Tillich and Henry Nelson Weiman," Mr. King used quotation marks and footnotes to mark part of a passage, but after the quotation marks ended, the borrowed text continued. Another project researcher discovered the similarities to the earlier dissertation.

After those issues surfaced, Mr. Carson asked his staff to check the sources of nearly all of Mr. King's academic work. A pattern emerged. Most of Mr. King's papers had many original thoughts. But throughout the seven years of graduate

school, Mr. King's essays, particularly in his major field of graduate study, systematic theology, often borrowed liberally from other sources without citing them in accordance with academic rules.

For the 46-year-old Mr. Carson, the discovery of Mr. King's questionable citation practices became an unwelcome obsession. Mr. Carson attended his first civil rights demonstration as a college freshman in 1963—the legendary March on Washington, where he heard Mr. King's "I Have a Dream" speech—and later was jailed for participating in a protest. As editor of the King papers, however, Mr. Carson has been determined "to keep a balance between the tendency to idealize and the tendency to debunk," he says. "My job is to explain, not to defend and not to attack."

The role has been an exasperating one. After the citation problems emerged, three project editors and a half-dozen student-researchers spent nearly two years annotating all of Mr. King's 150 or so academic papers. The long digression not only kept editors and students from doing more interesting research, but it threw the project's first volume, originally due out this January, 16 months behind schedule. The delay strained the finances of the project, funded mostly by the National Endowment for the Humanities and Stanford.

## Central Mystery

Mr. Carson tries not to be judgmental about the discoveries. He asked staff members to refrain from using the word "plagiarism" around the office, giving rise among the scholars to the euphemism "the P word." But that doesn't prevent Mr. Carson and his fellow researchers from trying to figure out the central question: Why?

Mr. King's academic papers demonstrated that he had a working knowledge of the use of footnotes, bibliographies and other conventions. Records show that he took a thesis-writing class at Boston University in which the teacher lectured on proper methods of citation. Somewhere, in most of Mr. King's scholarly essays, he cited the sources from which he borrowed material, though those citations rarely indicated the extent of his appropriations.

It is doubtful that Mr. King intended to slip anything past his dissertation adviser, L. Harold DeWolf. Three years before Mr. King completed his dissertation, Mr. DeWolf had been the doctoral adviser for a student named Jack Boozer, author of the dissertation that Mr. King so heavily relied on in parts of his own. Mr. DeWolf's signature appeared on the approval pages of both dissertations. (Mr. Boozer died in 1989. His wife, Ruth, says he learned about the project's findings shortly before his death. "He told me he'd be so honored and so glad if there were anything that Martin Luther King could have used from his work," she says.)

Mr. Carson guesses that Mr. King didn't think he was doing anything wrong. "The best evidence for that," he says, "is that he saved his papers and donated them to an archive—at BU of all places."

Mr. King wrote much of his dissertation in 1954, after becoming pastor of Dexter Avenue Baptist Church in Montgomery, Ala. He worked on the manuscript early in the morning and late at night, according to biographical accounts, while instituting a number of church programs and preaching at churches and colleges across the South. "It was possible that the press of his work caused him to be careless," suggests Cornish Rogers, a friend and class-

mate of Mr. King's at Boston University and now a professor at the School of Theology at Claremont, Calif.

Several researchers at the project have focused much of their disappointment on Mr. King's professors, who they say must have recognized the problems but didn't act. "Their assumption was they were training someone to go teach in a predominantly black college in the South," says Penny Russell, who worked for five years as administrator and associate editor of the project. "Were they setting up different standards?"

Mr. DeWolf, Mr. King's doctoral adviser, has died. S. Paul Schilling, the so-called second reader of Mr. King's dissertation at Boston University, has reviewed the project's findings. He says that Mr. King's dissertation was among the first he ever evaluated and that "I was not sufficiently perceptive in regard to plagiarism." He vehemently denies that he or Mr. DeWolf had any double standards.

## Presenting the Findings

All of this presented difficult issues to the project. Among them: How should the project reveal its findings? And should the project use footnotes in the volumes to note each borrowed passage? Not only would that dramatically increase the length of the books, but Mr. Carson worried about the visual impact of page after page of footnotes occupying as much or more space as Mr. King's own writing.

The issues were discussed in October 1989 at a meeting in Atlanta of the project's advisory board. Mrs. King presided. She opened the meeting with a prayer and thanked the dozen or so scholars for their attendance. For the rest of the all-day meeting, Mrs. King said almost nothing, registering little emotion on her face, according to people in attendance. Through a spokesman, she deferred inquiries for this article to Mr. Carson.

After several hours of sometimes emotional discussion, the advisory board agreed that Mr. Carson should do two things: Publish the academic papers with complete footnotes, regardless of the visual effect, and write a separate scholarly article, outlining and interpreting the citation problems.

In June, Mr. Carson submitted a paper on Mr. King's use of citations to the *Journal of American History*. It was rejected. Neither Mr. Carson nor the journal will discuss why. But project staff members say the journal criticized Mr. Carson's unwillingness to take a firm stand on the question of plagiarism.

Mr. Carson is revising the piece for re-submission. (Last week, when he learned *The Wall Street Journal* was preparing this article, he agreed to be interviewed.) If accepted, his article will probably appear in the *Journal of American History's* June issue. Staff members say he is addressing the question of plagiarism more directly and may include a chart showing the approximate percentages in the dissertation of Mr. King's own words and the words of others. For now, Mr. Carson will say only that a "substantial" amount was borrowed.

Mr. Carson does not have an easy task. Says Mr. Luker, the associate editor, who is based at Emory University: "Clayborne has to achieve a position that is politically viable in the black community, politically respectable and acceptable in the academic community, and maintain a friendly relationship with Mrs. King."



Clayborne Carson