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SENATE BILL NO. 370  
*Senators: Elvone Manly, Willie Murray, Raskie*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE APPOINTMENT OF PUBLIC SERVICE COMMISSIONERS; AMENDING SECTIONS 70-101 AND 82A-1702, R.C.M. 1947; REPEALING SECTION 70-101.1, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-101, R.C.M. 1947, is amended to read as follows:

"70-101. Creation of public service commission. ~~[[1] A~~  
~~There is a public service commission is hereby created,~~  
whose duty it ~~shall be~~ is to supervise and regulate the operations of the public utilities ~~hereinafter named,~~ such ~~the~~ supervision and regulation to be in conformity with this ~~act chapter.~~

~~[[2] The commission shall consist of five (5) three~~  
~~members who shall be qualified electors of the district from~~  
~~which they are elected with each such member elected from a~~  
~~separate district of the state. At the next general~~  
~~election there shall be elected five (5) commissioners for~~  
~~said commission except as hereinafter provided. Any~~  
~~commissioner whose term has not expired on the effective~~

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~~date of this act shall continue in office until the end of~~  
~~his term. Of the commissioners elected at the first election~~  
~~under this act, three (3) shall serve for a term of two (2)~~  
~~years, and two (2) for a term of four (4) years. At their~~  
~~first meeting the commissioners shall determine by lot which~~  
~~of them shall serve the terms less than four (4) years.~~  
~~Every term thereafter shall be for a period of four (4)~~  
~~years commencing from the expiration of the first term. Said~~  
~~commissioners when elected will qualify at the time and in~~  
~~the manner provided by law for other state officers and~~  
~~shall take office on the first Monday of January next after~~  
~~their election.~~

[[3] Members of the public service commission are  
appointed by the governor with the advice of the senate. The  
governor shall designate the terms of the first two members  
appointed so that the term of one member commences on the  
first Monday of January, 1979, and continues for a term of 2  
years and the term of the other member commences on the  
first Monday of January, 1979, and continues for a term of 4  
years. The third member shall be appointed by the governor  
(who will hold office in 1981) for a term commencing on the  
first Monday of January, 1981, and the term continues for a  
period of 4 years. Thereafter, each member appointed serves  
for a term of 4 years commencing on the first Monday of  
January of the year in which the member is appointed.

1 (4) After the effective date of this act, a vacancy  
 2 created by the death, resignation, or removal of a member of  
 3 the commission shall be filled by appointment by the  
 4 governor subject to the consent of the senate. If the senate  
 5 is adjourned, the appointment is subject to the consent of  
 6 the senate when the senate is next in session. An  
 7 appointment to fill a vacancy is for the unexpired term of  
 8 the member replaced.

9 (5) The commission shall select a chairman from its  
 10 membership at the first meeting of each odd-numbered year.

11 (6) A person serving as a member of the commission  
 12 upon the effective date of this act shall serve for the  
 13 remainder of the term for which the person was elected or  
 14 appointed and until the person's successor is appointed and  
 15 qualified. Each of said members of said board so elected  
 16 shall serve until his successor is elected and qualified. A  
 17 chairman shall be selected by the commission from its  
 18 membership at the first meeting of each year after a general  
 19 election.

20 Any vacancy occurring in the board shall be filled by  
 21 appointment by the governor and such appointee shall hold  
 22 office until the next general election and until his  
 23 successor is elected and qualified. At the biennial election  
 24 following the occurrence of any vacancy in the board there  
 25 shall be elected one (1) member to fill out the unexpired

1 ~~term for which such vacancy exists."~~

2 Section 2. Section 82A-1702, R.C.M. 1947, is amended  
 3 to read as follows:

4 "82A-1702. Public service commission -- continued --  
 5 composition. (1) The public service commission, created in  
 6 Title 70, chapter 1, ~~R.C.M. 1947~~, and its functions are  
 7 continued.

8 (2) The composition, method of selection, and terms of  
 9 office of members of the commission ~~remain as are~~ prescribed  
 10 in ~~section 72-101 70-101, R.C.M. 1947~~. ~~Members of the~~  
 11 ~~board of railroad commissioners ex officio public service~~  
 12 ~~commission before the effective date of this chapter~~  
 13 ~~continue as members of the public service commission for the~~  
 14 ~~remainder of their terms."~~

15 Section 3. Repealer. Section 70-101.1, R.C.M. 1947, is  
 16 repealed.

17 Section 4. Effective date. This act is effective on  
 18 its passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 348-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 3, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 370 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for the appointment of Public Service Commissioners and reduce from five (5) to three (3) the number of Commissioners.

ASSUMPTIONS:

Two (2) of the Commissioner's terms will expire January 1, 1979 and three (3) of the Commissioner's terms will expire January 1, 1981.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Expenditures under current law	\$109,000	\$109,000
Expenditures under proposed law	<u>109,000</u>	<u>86,960</u>
Decrease in expenditures due to proposed legislation	<u>\$ 0</u>	<u>\$ 22,040</u>

*Richard L. Dwyer*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-8-77

Approved by Committee  
on Business and Industry

SENATE BILL NO. 370

INTRODUCED BY  
*Raskie*

*Senate*  
*Steve Manly* *Hilda Murray*

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
2 APPOINTMENT OF PUBLIC SERVICE COMMISSIONERS; AMENDING  
3 SECTIONS 70-101 AND 82A-1702, R.C.M. 1947; REPEALING SECTION  
4 70-101.1, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE  
5 DATE."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 Section 1. Section 70-101, R.C.M. 1947, is amended to  
8 read as follows:

9 "70-101. Creation of public service commission. (1) A  
10 ~~There is a public service commission is hereby created,~~  
11 whose duty it ~~shall be~~ is to supervise and regulate the  
12 operations of the public utilities hereinafter named, such  
13 ~~the~~ supervision and regulation to be in conformity with this  
14 act chapter.

15 (2) The commission shall consist of ~~five (5) three~~  
16 members who shall be qualified electors of ~~the district from~~  
17 ~~which they are elected with each such member elected from a~~  
18 ~~separate district~~ of the state. ~~At the next general~~  
19 ~~election, there shall be elected five (5) commissioners for~~  
20 ~~said commission except as hereinafter provided. Any~~  
21 ~~commissioner whose term has not expired on the effective~~

1 ~~date of this act shall continue in office until the end of~~  
2 ~~his term of the commissioners elected at the first election~~  
3 ~~under this act, three (3) shall serve for a term of two (2)~~  
4 ~~years, and two (2) for a term of four (4) years. At their~~  
5 ~~first meeting the commissioners shall determine by lot which~~  
6 ~~of them shall serve the terms less than four (4) years.~~  
7 ~~Every term thereafter shall be for a period of four (4)~~  
8 ~~years commencing from the expiration of the first term. Said~~  
9 ~~commissioners when elected will qualify at the time and in~~  
10 ~~the manner provided by law for other state officers, and~~  
11 ~~shall take office on the first Monday of January next after~~  
12 ~~their election.~~

13 (3) Members of the public service commission are  
14 appointed by the governor with the advice of the senate. The  
15 governor shall designate the terms of the first two members  
16 appointed so that the term of one member commences on the  
17 first Monday of January, 1979, and continues for a term of 2  
18 years and the term of the other member commences on the  
19 first Monday of January, 1979, and continues for a term of 4  
20 years. The third member shall be appointed by the governor  
21 (who will hold office in 1981) for a term commencing on the  
22 first Monday of January, 1981, and the term continues for a  
23 period of 4 years. Thereafter, each member appointed serves  
24 for a term of 4 years commencing on the first Monday of  
25 January of the year in which the member is appointed.

1 (4) After the effective date of this act, a vacancy  
 2 created by the death, resignation, or removal of a member of  
 3 the commission shall be filled by appointment by the  
 4 governor subject to the consent of the senate. If the senate  
 5 is adjourned, the appointment is subject to the consent of  
 6 the senate when the senate is next in session. An  
 7 appointment to fill a vacancy is for the unexpired term of  
 8 the member replaced.

9 (5) The commission shall select a chairman from its  
 10 membership at the first meeting of each odd-numbered year.

11 (6) A person serving as a member of the commission  
 12 upon the effective date of this act shall serve for the  
 13 remainder of the term for which the person was elected or  
 14 appointed and until the person's successor is appointed and  
 15 qualified. Each of said members of said board so elected  
 16 shall serve until his successor is elected and qualified. A  
 17 chairman shall be selected by the commission from its  
 18 membership at the first meeting of each year after a general  
 19 elections

20 Any vacancy occurring in the board shall be filled by  
 21 appointment by the governor and such appointee shall hold  
 22 office until the next general election and until his  
 23 successor is elected and qualified. At the biennial election  
 24 following the occurrence of any vacancy in the board, there  
 25 shall be elected one (1) member to fill out the unexpired

1 ~~term for which such vacancy exists"~~

2 Section 2. Section 82A-1702, R.C.M. 1947, is amended  
 3 to read as follows:

4 "82A-1702. Public service commission -- continued --  
 5 composition. (1) The public service commission, created in  
 6 Title 70, chapter 1, ~~Rv--Ev--Mv--1947~~, and its functions are  
 7 continued.

8 (2) The composition, method of selection, and terms of  
 9 office of members of the commission ~~remain as~~ are prescribed  
 10 in ~~section--72-101~~ 70-101, ~~Rv--Ev--Mv--1947~~. ~~Members of the~~  
 11 ~~board of railroad commissioners ex-officio public service~~  
 12 ~~commission--before the effective date of this chapter~~  
 13 ~~continue as members of the public service commission for the~~  
 14 ~~remainder of their terms."~~

15 Section 3. Repealer. Section 70-101.1, R.C.M. 1947, is  
 16 repealed.

17 Section 4. Effective date. This act is effective on  
 18 its passage and approval.

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INTRODUCED BY *Senate* BILL NO. *370*  
*Steve Manly* *Hilda Murray*  
*Raskie*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE APPOINTMENT OF PUBLIC SERVICE COMMISSIONERS; AMENDING SECTIONS 70-101 AND 82A-1702, R.C.M. 1947; REPEALING SECTION 70-101.1, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Section 70-101, R.C.M. 1947, is amended to read as follows:

"70-101. Creation of public service commission. ~~(1) A~~  
~~There is a~~ public service commission ~~is hereby created,~~  
whose duty it ~~shall be~~ is to supervise and regulate the operations of the public utilities hereinafter named, such ~~the~~ supervision and regulation to be in conformity with this act chapter.

~~(2) The commission shall consist of five (5) three~~  
members who shall be qualified electors of ~~the district from~~  
~~which they are elected with each such member elected from a~~  
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~~first meeting the commissioners shall determine by lot which~~  
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~~commissioners when elected will qualify at the time and in~~  
~~the manner provided by law for other state officers, and~~  
~~shall take office on the first Monday of January, next after~~  
~~their elections.~~

(3) Members of the public service commission are  
appointed by the governor with the advice of the senate. The  
governor shall designate the terms of the first two members  
appointed so that the term of one member commences on the  
first Monday of January, 1979, and continues for a term of 2  
years and the term of the other member commences on the  
first Monday of January, 1979, and continues for a term of 4  
years. The third member shall be appointed by the governor  
(who will hold office in 1981) for a term commencing on the  
first Monday of January, 1981, and the term continues for a  
period of 4 years. Thereafter, each member appointed serves  
for a term of 4 years commencing on the first Monday of  
January of the year in which the member is appointed.

1 (4) After the effective date of this act, a vacancy  
 2 created by the death, resignation, or removal of a member of  
 3 the commission shall be filled by appointment by the  
 4 governor subject to the consent of the senate. If the senate  
 5 is adjourned, the appointment is subject to the consent of  
 6 the senate when the senate is next in session. An  
 7 appointment to fill a vacancy is for the unexpired term of  
 8 the member replaced.

9 (5) The commission shall select a chairman from its  
 10 membership at the first meeting of each odd-numbered year.

11 (6) A person serving as a member of the commission  
 12 upon the effective date of this act shall serve for the  
 13 remainder of the term for which the person was elected or  
 14 appointed and until the person's successor is appointed and  
 15 qualified. Each of said members of said board so elected  
 16 shall serve until his successor is elected and qualified. A  
 17 chairman shall be selected by the commission from its  
 18 membership at the first meeting of each year after a general  
 19 election.

20 Any vacancy occurring in the board shall be filled by  
 21 appointment by the governor, and such appointee shall hold  
 22 office until the next general election, and until his  
 23 successor is elected and qualified. At the biennial election  
 24 following the occurrence of any vacancy in the board, there  
 25 shall be elected one (1) member to fill out the unexpired

1 ~~term for which such vacancy exists."~~

2 Section 2. Section 82A-1702, R.C.M. 1947, is amended  
 3 to read as follows:

4 "82A-1702. Public service commission -- continued --  
 5 composition. (1) The public service commission, created in  
 6 Title 70, chapter 1, ~~Rv-Ev-Mv-1947~~, and its functions are  
 7 continued.

8 (2) The composition, method of selection, and terms of  
 9 office of members of the commission ~~remain as~~ are prescribed  
 10 in ~~section 72-101~~ 70-101 ~~Rv-Ev-Mv-1947~~. Members of the  
 11 board of railroad commissioners ~~ex officio~~ public service  
 12 commission ~~before the effective date of this chapter~~  
 13 ~~continue as members of the public service commission for the~~  
 14 ~~remainder of their terms."~~

15 Section 3. Repealer. Section 70-101.1, R.C.M. 1947, is  
 16 repealed.

17 Section 4. Effective date. This act is effective on  
 18 its passage and approval.

-End-

March 25, 1977

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 370, Third reading copy, as follows:

1. Amend pages 2 and 3, section 1, subsections 3 through 6, lines 13 through 15 on page 2.

Strike: subsections 3 through 6 in their entirety.

Insert: "(3) The Commission shall select a chairman from its membership at the first meeting of each odd-numbered year.

(4) The term of office shall be 4 years beginning on the first Monday of January of the year of appointment.

2. Amend page 4.

Following: line 14

Insert: "Section 3. There is a new R.C.M. section that reads as follows:

"Public service commissioners nominating committee.

(1) There is a public service commissioners nominating committee which shall provide the Governor with a list of three candidates for nominee to fill any vacancy on the public service commission.

(2) The committee consists of seven members as follows:

(a) one member appointed by the Supreme Court;

(b) one member appointed by the legislative consumer committee;

(c) one member appointed by the Governor;

(d) one member appointed by the majority leader in the House of Representatives;

(e) one member appointed by the majority leader in the Senate

(f) one member appointed by the minority leader in the House; and

(g) one member appointed by the minority leader in the Senate.

(3) Members shall serve terms of 4 years.

(4) In the event a vacancy occurs on the Committee, a replacement shall be selected for the remainder of the term by the appointing authority.

(5) One member shall be selected as secretary of the Committee and shall keep a record of all proceedings of the Committee.

(6) Four members constitute a quorum for the transaction of business. To submit a name to the Governor, there must be a concurrence of at least four members.

(7) A member of the Committee is not eligible for nomination as a public service commissioner during his term on the committee or for 1 year thereafter.

(8) Members of the committee are not entitled to compensation for their services but are entitled to travel expenses in accordance with 59-538, 59-539, and 59-801."



Section 4. There is a new R.C.M. section that reads as follows:

"Selection of candidates. (1) The Committee shall meet immediately after a vacancy occurs on the public service commission and submit to the Governor within 30 days from the date of the vacancy a list of three persons.

(2) Any qualified elector may apply to the committee for consideration.

(3) The committee shall consider each applicant's education, experience, and training and select the names of the three most qualified applicants for each vacant position.

(4) The Governor shall make one nomination from the three names submitted."

Section 5. There is a new R.C.M. section that reads as follows:

"Confirmation by legislature. Each nomination shall be confirmed by the Senate and House of Representatives, but a nomination made while the legislature is not in session is effective as a confirmed appointment. Until the end of the next session, if the nomination is not confirmed, the office is vacant and another selection and nomination shall be made."

Section 6. Election vote of confidence.

"At the first general election, after confirmation the name of the public service commissioner shall be placed on the ballot to allow voters of the state to approve or reject him."

Section 7. Transition schedule.

"(1) After the effective date of this act, a vacancy on the public service commission shall be filled in accordance with this act for the unexpired term of the member replaced.

(2) A person serving as a member of the commission on the effective date of this act shall serve for the remainder of this term and until his successor is nominated and confirmed.

(3) The Governor shall designate the terms of the first two members appointed under this act to replace a member whose term has expired so that the term of one member commences on the first Monday of January, 1979, and continues for a term of 2 years and the term of the other member commences on the first Monday of January, 1979, and continues for a term of 4 years. The third member shall be appointed by the Governor (who will hold office in 1981) for a term commencing on the first Monday of January, 1981, and the term continues for a period of 4 years. Thereafter, each member appointed serves for a term of 4 years commencing on the first Monday of January of the year in which the member is appointed."

Renumber: subsequent sections.