

Senate Bill 294

In The Senate

January 27, 1981	Introduced and referred to Committee on State Administration.
February 19, 1981	Committee recommend bill do pass as amended.
February 20, 1981	Bill printed and placed on members' desks.
Februaury 21, 1981	Second reading do pass as amended.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading passed.

In The House

March 3, 1981	Introduced and referred to Committee on State Administration.
March 27, 1981	Committee recommend bill concurred as amended.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Second reading not concurred.

In The Senate

April 1, 1981	Returned from House not concurred.
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1 *Senate* BILL NO. *294*  
 2 INTRODUCED BY *Harmonized Story Johnson*  
 3 *Hoffman*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
 5 2-15-112, MCA, TO REQUIRE DEPUTY DIRECTORS AND DIVISION  
 6 ADMINISTRATORS TO SERVE AT THE PLEASURE OF DEPARTMENT  
 7 DIRECTORS AND DEPARTMENT HEADS."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 2-15-112, MCA, is amended to read:

11 "2-15-112. Duties and powers of department heads. (1)  
 12 Except as otherwise provided by law, each department head  
 13 shall:

14 (a) supervise, direct, account for, organize, plan,  
 15 administer, and execute the functions vested in the  
 16 department by this chapter or other law;

17 (b) establish the policy to be followed by the  
 18 department and employees;

19 (c) compile and submit reports and budgets for the  
 20 department as required by law or requested by the governor;

21 (d) provide the governor with any information that he  
 22 requests at any time on the operation of the department;

23 (e) represent the department in communications with  
 24 the governor;

25 (f) prescribe rules, consistent with law and rules

1 established by the governor, for the administration of the  
 2 department; the conduct of the employees; the distribution  
 3 and performance of business; and the custody, use, and  
 4 preservation of the records, documents, and property  
 5 pertaining to department business. The lieutenant governor,  
 6 secretary of state, attorney general, auditor, and  
 7 superintendent of public instruction may prescribe their own  
 8 rules for their departments or offices, and the governor may  
 9 not prescribe rules for them. The rules described in this  
 10 subsection are limited to statements concerning only the  
 11 internal management of the agency and not affecting private  
 12 rights or procedures available to the public. This section  
 13 does not authorize the adoption of any rule as rules are  
 14 defined in the Montana Administrative Procedure Act.

15 (g) subject to the approval of the governor, establish  
 16 the internal organizational structure of the department and  
 17 allocate the functions of the department to units to promote  
 18 the economic and efficient administration and operation of  
 19 the department. The internal structure of the department  
 20 shall be established in accordance with 2-15-104(2).

21 (h) subject to law and the state merit system, if  
 22 applicable, establish and make appointments to necessary  
 23 subordinate positions and abolish unnecessary positions,  
 24 ~~including appointment of deputy directors and division~~  
 25 ~~administrators who shall serve at the pleasure of the~~

1 ~~department head. A department head may remove a deputy~~  
 2 ~~director or division administrator at any time, and such~~  
 3 ~~removal is exempt from the following:~~

4 ~~(i) grievance proceedings or rules adopted by an~~  
 5 ~~agency or department;~~

6 ~~(ii) personnel policies or standards adopted by an~~  
 7 ~~agency or department; or~~

8 ~~(iii) rules or policies adopted by a department or~~  
 9 ~~agency implementing personnel evaluation, retention, or~~  
 10 ~~disciplinary plans.~~

11 (i) maintain a central office in Helena for the  
 12 department and such other facilities throughout the state as  
 13 may be required for the effective and efficient operation of  
 14 the department.

15 (2) Except as otherwise provided by law, each  
 16 department head may:

17 (a) subject to law and the state merit system, if  
 18 applicable, transfer employees between positions, remove  
 19 persons appointed to positions, and change the duties,  
 20 titles, and compensation of employees within the department;

21 (b) delegate any of the functions vested in the  
 22 department head to subordinate employees;

23 (c) apply for, accept, administer, and expend funds,  
 24 grants, gifts, and loans from the federal government or any  
 25 other source in administering the department's functions;

1 (d) enter into agreements with federal, state, and  
 2 local agencies necessary to carry out the department's  
 3 functions."

-End-

Approved by Committee  
on State Administration

SENATE BILL NO. 294

INTRODUCED BY HAMMOND, STORY, JOHNSON, HAFFERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
SECTIONS 2-15-112 AND 49-2-308, MCA, TO REQUIRE DEPUTY  
DIRECTORS AND DIVISION ADMINISTRATORS, AND BUREAU CHIEFS TO  
SERVE AT THE PLEASURE OF DEPARTMENT DIRECTORS AND DEPARTMENT  
HEADS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-112, MCA, is amended to read:

"2-15-112. Duties and powers of department heads. (1)

Except as otherwise provided by law, each department head shall:

(a) supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by this chapter or other law;

(b) establish the policy to be followed by the department and employees;

(c) compile and submit reports and budgets for the department as required by law or requested by the governor;

(d) provide the governor with any information that he requests at any time on the operation of the department;

(e) represent the department in communications with the governor;

(f) prescribe rules, consistent with law and rules established by the governor, for the administration of the department; the conduct of the employees; the distribution and performance of business; and the custody, use, and preservation of the records, documents, and property pertaining to department business. The lieutenant governor, secretary of state, attorney general, auditor, and superintendent of public instruction may prescribe their own rules for their departments or offices, and the governor may not prescribe rules for them. The rules described in this subsection are limited to statements concerning only the internal management of the agency and not affecting private rights or procedures available to the public. This section does not authorize the adoption of any rule as rules are defined in the Montana Administrative Procedure Act.

(g) subject to the approval of the governor, establish the internal organizational structure of the department and allocate the functions of the department to units to promote the economic and efficient administration and operation of the department. The internal structure of the department shall be established in accordance with 2-15-104(2).

(h) subject to law and the state merit system, if applicable, establish and make appointments to necessary subordinate positions and abolish unnecessary positions, ~~including appointment of deputy.~~ DEPUTY directors and

1 division administrators who, AND BUREAU CHIEFS shall serve  
 2 at the pleasure of the department head. A department head  
 3 may remove a deputy director or, division administrator, OR  
 4 BUREAU CHIEF at any time, and such removal is exempt from  
 5 the following:

6 (i) grievance proceedings, INCLUDING BUT NOT LIMITED  
 7 TO 2-18-1001 THROUGH 2-18-1003, 87-1-205, AND 87-1-403, or  
 8 rules adopted by an agency or department;

9 (ii) personnel policies or standards adopted by an  
 10 agency or department; or

11 (iii) rules or policies adopted by a department or  
 12 agency implementing personnel evaluation, retention, or  
 13 disciplinary plans.

14 (i) maintain a central office in Helena for the  
 15 department and such other facilities throughout the state as  
 16 may be required for the effective and efficient operation of  
 17 the department.

18 (2) Except as otherwise provided by law, each  
 19 department head may:

20 (a) subject to law and the state merit system, if  
 21 applicable, transfer employees between positions, remove  
 22 persons appointed to positions, and change the duties,  
 23 titles, and compensation of employees within the department;

24 (b) delegate any of the functions vested in the  
 25 department head to subordinate employees;

1 (c) apply for, accept, administer, and expend funds,  
 2 grants, gifts, and loans from the federal government or any  
 3 other source in administering the department's functions;

4 (d) enter into agreements with federal, state, and  
 5 local agencies necessary to carry out the department's  
 6 functions."

7 SECTION 2. SECTION 49-2-308, MCA, IS AMENDED TO READ:

8 "49-2-308. Discrimination by the state. It is an  
 9 unlawful discriminatory practice for the state or any of its  
 10 political subdivisions:

11 (1) to refuse, withhold from, or deny to a person any  
 12 local, state, or federal funds, services, goods, facilities,  
 13 advantages, or privileges because of race, creed, religion,  
 14 sex, marital status, color, age, physical or mental  
 15 handicap, or national origin, unless based on reasonable  
 16 grounds;

17 (2) to publish, circulate, issue, display, post, or  
 18 mail a written or printed communication, notice, or  
 19 advertisement which states or implies that any local, state,  
 20 or federal funds, services, goods, facilities, advantages,  
 21 or privileges of the office or agency will be refused,  
 22 withheld from, or denied to a person of a certain race,  
 23 creed, religion, sex, marital status, color, age, physical  
 24 or mental handicap, or national origin or that the patronage  
 25 of a person of a particular race, creed, religion, sex,

1 marital status, color, age, or national origin or possessing  
2 a physical or mental handicap is unwelcome or not desired or  
3 solicited, unless based on reasonable grounds;

4 (3) to refuse employment to a person, to bar him from  
5 employment, or to discriminate against him in compensation  
6 or in a term, condition, or privilege of employment because  
7 of his political beliefs. However, this prohibition does not  
8 apply to policymaking positions on the immediate staff of an  
9 elected officer of the executive branch provided for in  
10 Article VI, section 1, of the Montana constitution, to the  
11 appointment by the governor of a director, deputy director,  
12 division administrator, and bureau chief of a principal  
13 department provided for in Article VI, section 7, of the  
14 Montana constitution, or to the immediate staff of the  
15 majority and minority leadership of the Montana  
16 legislature."

17 SECTION 3. EFFECTIVE DATE. SECTIONS 1 AND 2 ARE  
18 EFFECTIVE UPON PASSAGE AND APPROVAL.

-End-

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 15 handicap, or national origin, unless based on reasonable  
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 23 creed, religion, sex, marital status, color, age, physical  
 24 or mental handicap, or national origin or that the patronage  
 25 of a person of a particular race, creed, religion, sex,



1 marital status, color, age, or national origin or possessing  
 2 a physical or mental handicap is unwelcome or not desired or  
 3 solicited, unless based on reasonable grounds;

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